UC-NRLF
$B 22 425
YC 08964

LIBRARY
OF THE
UNIVERSITY OF CALIFORNIA.
GIFT OF
Class

With compliments of
H. B.

[Papers of the New Haven Colony Historical Society, Vol. III.]

CHAPTERS ON THE EARLY GOVERNMENT OF CONNECTICUT;

WITH CRITICAL AND EXPLANATORY REMARKS ON

THE CONSTITUTION OF 1639.

By Henry Bronson, M.D.

[Read March 3, 1879, and Feb. 23, 1880.]

JK 49
.C5 B7

[Papers of the New Haven Colony Historical Society, Vol. III.]

CHAPTERS ON THE EARLY GOVERNMENT OF CONNECTICUT;

WITH CRITICAL AND EXPLANATORY REMARKS ON

THE CONSTITUTION OF 1639.

By Henry Bronson, M.D.

[Read March 3, 1879, and Feb. 23, 1880.]

Chapter I.

The first planters of the three towns on the Connecticut River, Wethersfield, Windsor, and Hartford, came from Watertown, Dorchester, and Newtown (now Cambridge), near Boston. They were distinct ecclesiastical bodies before they started, each proposing a settlement of its own. For the most part, they were farmers seeking more and better land than could be obtained at the Bay. All were respectable, and among them were some of the foremost men of New England and the Puritan faith, distinguished alike for wisdom, learning, purity, and piety. They were honest, resolute, zealous, and at the same time prudent and sagacious—in the latter qualities surpassed by none. The General Court of Massachusetts was asked to sanction their design to remove. A majority of the magistrates strenuously opposed; the deputies consented. Jealousies, contention, and a great hubbub ensued, when the Court, according to custom in cases of perplexity, "agreed to keep a day of humiliation to seek the Lord," and adjourned. The day was observed "in all the congregations." When the members again assembled, they were edified by a set sermon

228387

preached by the famous Mr. Cotton, of Boston. But steadfastness, in those times, was not a rare quality, and the proposed general movement, mostly without official sanction, was not long delayed. After it had begun, the General Court, in May, 1636, with the acquiescence of John Winthrop, Jr., whom the patentees in England had appointed governor of Connecticut, granted a commission to eight discreet persons to govern the new settlements for one year. Their names and the names of the towns they were probably expected, in some way, to represent, were: Roger Ludlow and William Phelps, of Windsor, John Steele and William Westwood, of Hartford, William Swaine and Andrew Ward, of Wethersfield, William Pynchon, of Agawam (Springfield), and Henry Smith, his son-in-law. Seemingly, for mutual convenience and support, Agawam was at first associated in government with the towns below. This connection, always wavering or disputed, was not formally ended till 1641. (See Palfrey's History of New England, i, 604.) There was a controversy about the boundary line and the right of jurisdiction which caused confusion and a vacillating policy.

Undeniably, that was an extraordinary form of government which the people of Connecticut accepted as their own. Provided, as it was, by another colony—one with which they had now no political connection—it had, of course, no rightful authority, and could bind nobody. On the part of Massachusetts, it was a manifest usurpation. In appearance, the governed, as a body, had no voice in it, took no action concerning it, yet they submitted with seeming cheerfulness, considering it, probably, as a needful and convenient provisional arrangement.

To the commissioners was given "full power to hear and determine, in a judicial way, all differences between party and party; to imprison, impose fines, and inflict corporal punishment for crimes, and to order the affairs of the plantations in trading, planting, building, military discipline, etc., as shall best conduce to the public good." (Hazard, i, 322.) As "A Courte," they met, for the first time, April 26, 1636, in Hart-

ford, and then irregularly in the other settlements. Without claiming all the authority their commission assumed to grant, they took charge of the general interests of the towns, leaving local affairs to local management. I infer this from a very brief record of their doings. They regulated trade with the Indians, made rules concerning swine running at large, appointed committees to trace the town lines, and ordered the soldiers to provide themselves with ammunition, and to train once a month. To prevent surprise by hostile Indians, they required watches to be maintained. They ratified certain church proceedings, and performed the duties of courts of justice and of probate. Largely, doubtless, they acted as an advisory committee, their own interest prompting them to seek the good of the people they governed. "The court of magistrates" was the name they applied to themselves when in session. On the whole, their government was so reasonable and just that those living under it did not probably much care by whose authority they held office.

The first planters on the river had not a perfect title to the soil they appropriated. Faithfully they extinguished, by purchase, the conflicting and often doubtful claims of the native Indians, who, hoping for protection from their old oppressors, the Mohawks and Pequots, had, several years before, invited a settlement among them; but the conceded claim, based on priority of discovery, of another party, the English patentees, they for the time ignored. When we refuse to call them trespassers and squatters, we concede much to their conspicuous respectability and high purpose. Soon they were called on, by proclamation, to acknowledge the prior right of the foreign proprietors. The demand was most honorably met by an offer to remove on the payment of expenses incurred. (Palfrey, i, 451.) But they did not remove, and were not called to account. Judged by the rule of righteousness, they were not debtors, but large creditors. Their enterprise and sacrifices had added much value to the estate of the patentees. The latter were their friends and well-wishers, and seemed to take this view of the case. Not till the charter was obtained

in 1662, were their titles and the right of jurisdiction made secure. Before the union, the Colony of New Haven was in the same condition as that of Connecticut.

The government accepted in the beginning by the planters, according to Dr. Palfrey (i, 455), "was found in practice inconvenient," and the commission, when the year had expired, was not renewed. But I suspect that inconvenience, merely, was not the motive for non-renewal. Much heavy work was to be done—work requiring the assistance of every able-bodied man—and it is probable that a more popular government was demanded. An army was to be raised and war material provided, and nothing could be accomplished without efficient organization. So, on the first day of May, 1637, a "*General* Corte" (the first in Connecticut), assembled in Hartford, having two classes or ranks of members. In the first were Roger Ludlow, William Phelps, Thomas Wells (of Hartford), John Steele, William Swaine, and Andrew Ward, two from each town, all members of the old commission, Mr. Wells a short time only. They were grave magistrates, and the trusted counselors of the settlements, whose business it doubtless was to represent wisely the several communities *as a whole*. They apparently occupied a position in the government similar to that of the magistrates under the Constitution of 1639. A very brief record does not give all the information we desire on this and other points.

The second class of members, called "committees" by the recorder, numbered nine, three from each town. They, too, were distinguished, each having the title of Mr.; but they occupied a position, both socially and politically, much inferior to that of the other class. Presumably, they represented the plantations from which they came. But till recently nothing has been certainly known as to the manner in which they, or their more dignified associates in the Court, were selected for office. In the first volume of Collections of the Connecticut Historical Society, Mr. J. H. Trumbull has published a letter of the Rev. Thomas Hooker, written in the fall of 1638, and addressed to Governor Winthrop, of Mass.,

in which he says: "at the time of our election, the committees of the town of Agawam came in with other towns, and chose their magistrates, installed them into their government, took the oath of office of them for the execution of justice according to God," etc. In this passage (as I read it) it is affirmed that the committees (deputies) chose the magistrates, and it is in a high degree probable that each of the towns, by a popular vote, elected its committee, as was afterward done by a constitutional provision.

Thus constituted, the General Court, all the members seemingly acting and voting together as one representative body, assembled as stated. Its weighty business, without preamble or any whereases, was at once set forth, in a few brief sentences, as follows:

"It is ordered that there shall be offensive war against the Pequot, and there shall be ninety men levied out of the three plantations, . . . out of Hartford, forty-two, Windsor, thirty, Wethersfield, eighteen, under the command of Captain John Mason, and, in case of death or sickness, under the command of Robert Seely, Lieutenant; and [under] the eldest sergeant or military officer surviving, if both these miscarry."

In two weeks, Captain Mason, leading seventy-seven fighting Puritans, armed with clumsy fire-locks, fire-brands, and the prayers of Mr. Stone, the chaplain, having little help from four hundred and sixty friendly but frightened Quaker Indians, destroyed, captured, and scattered forever, the whole tribe of heathen Pequots, the most powerful and ferocious in New England. The latter had among them one thousand warriors, while the whole population of the three towns was only about eight hundred. History will attribute the victory to the superiority of fire-arms and broadswords over bows and arrows, but religious men proclaimed it due to providential interference. At the same time, Captain Mason and his brave soldiers were glorified as if *they* had done something. They were rewarded, too, by a special grant of land in Hartford, called the "soldiers' field." In the prosecution of the war, there were certainly some remarkable escapes.

Under the date of February 9, 1637 (1638 as we now reckon),

the General Court was dissolved, "no more attendance of the members thereof to be expected, except they be newly chosen." This step, at this time, may have been taken in order to admit, on equal terms, Agawam into the union of the towns. Though furnishing no men, she had submitted to be taxed £86, 14s. for her proportion of the cost of the Pequot war, the whole expedition equaling £420. It was right, then, that she should be represented. After the additions, the General Court which met March 8, 1638, consisted of eight magistrates and twelve committee-men. Of the former class were Mr. Pynchon and Mr. Smith of Agawam. The next meeting, April 5, 1638, was the last before the Constitution, so called. Mr. Moxon and Mr. Burr, as a committee from Agawam, were present.

Of the nature of the compact which at this time united the towns, I know nothing more than has been stated. I infer that the union was of a provisional character, wholly voluntary in its origin, and perhaps sustained throughout by consent alone—sustained, it may be, while the leading men were unfolding, discussing, and perfecting the scheme for a permanent government which was soon to be presented and adopted. But whatever the bond which connected the towns, the administration was of the most vigorous kind, peremptory in all its methods. If the General Court had not absolute power, I know not what were the limitations. Without wasting words, it acted with promptness and power, and there was none to gainsay. Like the commission-government which preceded, it enacted general laws for the plantations, apportioned taxes among the towns, appointed a treasurer and collectors for the jurisdiction, took measures to remedy the short supply of corn and regulate the price, fined its own members one shilling each for absence or tardiness, and one shilling for "disorderly speaking privately, two or three together, during the sitting of the Court, if the Court think meet." Faithfully, no doubt, it stood guard over the "commonwealth," so styled in its proceedings.

When the first companies from Massachusetts reached their proposed homes on the Connecticut, society (politically speak-

ing) is supposed to have been in a chaotic state. For mutual helpfulness and defense, they settled in groups not far apart. Sinking for the moment the question of allegiance to a foreign power, each man must have been his own sovereign, bound by the moral law, but having no political ties. Their lands and other property owned in common were to be divided, roads laid out, bridges constructed, mischievous cattle, swine, and boys restrained, taxes levied, and collectors, treasurers, constables, and surveyors appointed. That these things may be done, a community must be organized. Where all have equal rights, equal power, and diverse interests, an organization could be best secured by meeting together on terms of equality, and after discussion and perhaps mutual concession, agreeing on certain rules and regulations to be established and enforced for the good of all. In the same friendly way, officers could be chosen to superintend the public affairs, and carry the agreements into effect. A gathering of this kind, embracing a whole people living within convenient limits, would be a town-meeting, the birth-place and starting-point, the laboratory and training-school of our republican institutions. Where justice, right, and power come together on a footing of equality, government could begin in no other way. Each individual would have a vote because he could command it; because there was no existing force, compatible with the object sought, to resist it. If the vote should be divided, the majority rather than the minority would rule, because might, now organized, is on its side. How might is converted into right, as dogmatists assume, how divinity, which alone gives authority to government, can afford so faithfully to follow power, is a mystery. Why a protesting minority retain their equal privileges up to the moment when a vote is taken and declared, and after that may be rightfully coerced, I cannot even conjecture. But here is deep water, and I must go ashore.

Under the pressure of circumstances, the three river towns were organized in the beginning, as suggested. They became distinct political bodies, infant commonwealths. Practically,

they were independent sovereignties, having no occasion or necessity or inducement to recognize any human authority outside of themselves. Their right to be, to exercise power, and to make laws and execute them, was in some way derived from the people—from the people entering into compact (impliedly at least) in town-meeting. These meetings were held in the first year of the settlements, one, certainly, in Hartford in 1635 (Stuart's Olden Time, p. 50), and one or more in Windsor in the same year, when George Hull was selectman (Stiles' History of Windsor, p. 129.)

There is other evidence that the towns were in existence and duly equipped for business before April 26, 1636, for at that date the Massachusetts commissioners, holding their first Court, referred to them by name, and appointed committees to run the boundary lines. Their orders and those of the General Court which succeeded them were usually addressed directly to the towns, as if they alone had the machinery wanted to carry commands into effect. Thus said the Court, in its imperial way, when calling for supplies for the Pequot war: "Windsor shall provide 60 bushels of corn, Hartford, 84 bushels, Wethersfield, 36 bushels," etc. When, however, a tax was levied to pay the cost of the expedition, public officers were appointed, a common treasurer, and one collector from each town.

It is probable that the whole male population who had arrived at the age of twenty-one years, exclusive of slaves, were permitted to vote in the earliest town-meetings. They were *residents*, so-called, or intended residents, all, as I suppose, good men and true. But erelong the goats came and mingled with the sheep. They were drones, idlers, beggars, vagrants, or "tramps," of both sexes, persons of loose morality and soiled reputations, "who hoped to better their condition without reforming their lives." (Stuart's Olden Time, pp. 52, 100; Chapin's Glastenbury, p. 30.) If the records must be believed, they were a graceless, scurvy lot, not much better than the peasantry and servants of New Haven whom President Dwight describes as "distinguished for vice and profligacy."

(Statistical Account of New Haven, p. 36.) Whence came they? It cannot be that they formed a part of the original companies that led the way into Connecticut, under the auspices of such men as Hooker, Stone, Warham, Ludlow, Wolcott, Haynes, and others. If they were servants trained up in Puritan families, in accordance with the rigid notions of that day, how was it that they became so wicked and worthless? Largely, doubtless, they were interloping visitors set ashore by merchant and fishing vessels along the coast, chiefly at Boston, who, driven from town to town by stringent laws, were seeking a resting place, finding none.

Not only was the example of these people contagious, but they might at any time become paupers. As dangerous and costly intruders, they were harried by the authorities, and when possible made to leave the plantations and the country. Of course they were excluded from town-privileges. By law no one could gain a legal residence, or acquire the rights of local citizenship, till accepted by a majority vote in town-meeting. The persons thus accepted were called *admitted inhabitants*. Those not admitted, termed *residents*, were of course not all vagrants, idlers, etc. Among them were doubtless new-comers whose names had not been presented. Others of good reputation were not in haste to assume unnecessary responsibility, and had no time to give to town business. There were then no fat offices to be distributed, and "rings" for plunder had not been invented. Seemingly, those not qualified as inhabitants were, and continued to be, a somewhat numerous class. If any among them were likely to become a public charge, they might be warned to depart. If they then lingered, they could be forcibly removed, and occasionally were given bounties to go. (Stuart's Olden Time, p. 196.)

Said Governor Leete, in 1680: "Beggars and vagabonds are not suffered in the Colony, but when discovered are bound out to service [that is, sold for a limited time]; yet sometimes a vagabond person will pass up and down the country, abusing the people with false news, cheating and stealing; but when discovered he is punished according to the offense." Whip-

ping, administered by some one who had himself suffered the infliction, was the usual punishment. It had the effect to disfranchise the person receiving it. (Stuart's Olden Time, 238, 248, 300; Conn. Col. Rec., i, 559.)

So far as they are a defense against outside pauperism, the regulations referred to, somewhat modified, are still in existence. Individuals are now made inhabitants either by a town vote, "or by the consent of the civil authority and selectmen."

When the roving and obnoxious class became more numerous and troublesome, as in a few years it did, the towns, gaining wisdom from experience, seem to have been increasingly rigid in admitting to town privileges. About 1659, there was a large accession to the class named, and between 1650 and 1665 but eight admissions are noted on the Hartford town records. (Stuart's Olden Time, 196.) Families were forbidden to give them encouragement. Those receiving them as boarders or tenants incurred a penalty of five pounds. Is it possible that at first, or at a later period, they were driven from the Bay and told to "go West," where, according to popular opinion, the land flowed with milk and honey, and a living could be had without work? In the caustic letter already referred to from Mr. Hooker to Governor Winthrop, in 1638, the writer complains bitterly of the course pursued by Massachusetts in dissuading immigrants, at that time numerous and of good quality, from going to Connecticut. In the inns at Boston, in Boston harbor, on their first arrival, and even in London before embarkation, they were met and besought, if they would not be undone, not to go to Connecticut, "where [the detractors alleged] the cows were all dead, * * * the upland will bear no corn, the meadows nothing but weeds, and the people were almost all starved." It is certain that the large removals two or three years before, and the departure of the Eaton and Davenport company afterward, greatly annoyed the older colony (*ante*, p. 293). Vehemently and not always patiently they were opposed, and it is probable that the like opposition was continued whenever the occasion presented.

Evidently, there was a scramble among the plantations to secure the choicer lots of settlers, and equal endeavor, doubtless, to persuade evil-minded or suspected persons not to tarry. In the struggle, those living near the usual landing-place, Boston, got the first chance at the new-comers, having a great advantage over Connecticut and New Haven colonists. Had they not improved it, they would have been unlike the other children of our fallen ancestors. However the business was conducted, the criminal records of the western settlements show that they fared very hard in the contest, certainly in that part of it which related to the disposal of the vagrant and vicious classes.

Among the laws of the New Haven Colony (Code of 1656) is one forbidding any person to receive or entertain strangers or sojourners (men or women), proposing to become planters, or to sell or lease to them houses or lands, or to permit them to remain longer than one month, without a license from a magistrate, or the consent of the major part of the freemen, etc.,"under the penalty of ten pounds." A year afterward, 1657, an order required that a seaman or other person bringing any one into any town without leave, who should not be accepted as an inhabitant, should be forced to carry him away again, "that the plantation be not troubled or charged with him." (N. H. Col. Rec., ii, 610, 217.) These enactments indicate that the settlements were overrun by "strangers, sojourners," intruders, characters not wanted either for use or ornament; that they were introduced by seamen and others, and that the safety of the "Jurisdiction" required their removal or exclusion.

The united towns, in General Court, must have made freemen, for freemen are recognized as already existing by the Constitution of January, 1639. That instrument required that all the members of the General Court should be freemen of the Commonwealth before they could be elected, and before the existence of the new Court, which alone had authority to admit freemen.

After a memorable life of twenty months, the united government (the first Commonwealth of Connecticut) was allowed

to expire, a more elaborate one having been prepared to take its place. As I understand it, its dissolution left the three towns in the same condition they were in when first organized, independent or quasi-sovereignties, directed and controlled by the original settlers and admitted inhabitants. For adequate cause, the whole people, holding in abeyance their several town compacts, and falling back on their primitive rights, consented to assemble on the 14th day of January, 1638 (January 24, 1639, new style), for the high purpose of considering and (if approved) adopting a written constitution, and establishing a consolidated and enduring government. They met in convention, and after a prayer, probably by Mr. Hooker, chose a Secretary, John Steele, and, of course, a Moderator, John Haynes (?). Then, having severed all political ties, each his own sovereign and delegate as in the primal town-meeting, they "pooled," so to say, their respective sovereignties, throwing all into a common stock. At this stage the unassorted and formless elements of a body politic were in a state of solution or fusion. But this is not history, and I forbear.

The Constitution which grew out of these proceedings has been said by a distinguished historical writer, to be "the first example in history of a written constitution, a distinct organic law," "proceeding from a people and in their name establishing and defining a government." (Dr. Bacon's Early Const. History of Conn.) So far as the two can be compared, the government which it instituted was similar to that which immediately preceded it. Having acted a distinguished part in the affairs of Massachusetts, its framers were prepared to select and appropriate whatever was good in the polity of that colony, and reject the evil.

Says the remarkable document which the people were called on to approve: "We, the inhabitants and residents ["the free planters," say Dr. Trumbull and others] of Windsor, Hartford, and Wethersfield, now cohabiting and dwelling on the river Connecticut," "for ourselves and successors, and such as shall be adjoined to us hereafter," "do associate and conjoin ourselves as one public state or commonwealth," etc. The language is

comprehensive—*we, the inhabitants and residents*—as if the whole population (exclusive, doubtless, of those whom custom disqualified, as minors, women, bondmen, and convicted criminals) was present. We are not told whether all were, in fact, present, or whether all had been properly warned. Probably some, perhaps many, were absent, detained by sickness, lameness, watching and warding, or by deep snows, bad weather and worse roads. If the meeting was held in the most convenient place, Hartford (as it probably was), the people of Windsor would have had a long distance to travel in midwinter, through the wilderness. Besides, there was then but little interest taken in political affairs—so little that Hartford, to secure a better attendance at town-meetings, was constrained to impose a fine of sixpence on those who staid away. (Stuart's Olden Time, p. 53.) At that period there was no drumming and bannered or mousing politicians to get out the voters.

If any were not notified, or were absent by no fault of their own, how were they represented in convention, or how bound by the uninvited, perhaps condemned action of others? As recorded, the Fundamental Orders, so called, unlike the Fundamental Agreement of the New Haven colonists, have no signers to show who (then or afterward) assented. Unwilling to pursue this subject, I must only whisper my suspicion that the meeting was not large. It may be too that those in attendance were half-frozen in an unheated room, and impatient to get away. On such an occasion, there could not have been much religious fervor to keep out the cold. To save time, and forestall needless debate and delay, the important work was doubtless done beforehand, in private conference. Among those present, it will be safe to count Roger Ludlow, John Haynes, and the Rev. Thomas Hooker, the reputed authors of the document to be considered. To these distinguished names, on plausible grounds, may be added those of Edward Hopkins, George Wyllys, John Webster, Henry Wolcott, magnates all, besides a few commoners, and a sprinkling of stragglers and passers-by.

The pilgrims who came to Connecticut were shrewd, com-

mon-sense Englishmen. They loved their native country and its government. They loved the church and its doctrines, but not its discipline. When landing on these western shores they did not renounce either, but those who settled the three towns found it necessary or convenient to ignore both. They were beyond the jurisdiction of Massachusetts; were not hemmed in like others by the restrictions of a joint stock company, nor fettered by a royal charter. They were alone in the wilderness, dependent on themselves for protection and the means of existence. They were farmers. Their lands were to be parcelled out and subdued, order established, laws enacted, crimes punished, hostile Indians kept at bay, churches planted and defended. There was no power outside the settlements to which they could look for help. Whatever relation they may have sustained to the mother country, three thousand miles away, it had for the moment no present or practical value. Meeting under these circumstances, with few precedents to guide them, and obliged to act for themselves, their civil like their ecclesiastical government would naturally, almost inevitably, assume a republican and independent form. At the outset, in their solitary condition, they would no more think of proclaiming, in due form, their allegiance to a foreign king, who knew not of their existence, than would a company of cast-away sailors on a lonely island. Sufficient it was that they did not deny it. They doubtless thought with some bitterness of the wrongs they had suffered, but having sought obscurity to escape further persecution, they avoided needless display, and deprecated the damaging notoriety which their restless friends "at the Bay" had obtained. They could gain nothing, but might lose much, by prematurely invoking the name of a prince who was doing all he could to enforce conformity and crush Puritanism in his kingdom. The formal acknowledgement of themselves as subjects, the confession of undying loyalty, would not have given strength, or authority, or purity, or legitimacy, to the government they were about to establish. There was, then, no temptation in that direction. The independence which, at this time, the planters desired was ecclesi-

astical, more than political. A few years later, they were very glad to concede their colonial dependence, and accept a royal charter which seemed to promise security from outside dictation in the matter of religion. So much I have said in explanation of a noteworthy omission in the Constitution.

It is evident that the planters of Connecticut intended practical independence, so long as that was necessary for the safety of their peculiar institutions; but I do not find that they had more than others far-reaching views, or any settled purpose of founding a great republic. So long as the future was uncertain, black clouds hanging portentously over their English homes, steadily they styled themselves or their government a Commonwealth, or when lawful authority was implied, a Jurisdiction; but when King Charles had been beheaded, and England had itself become a Commonwealth, ruled by Oliver Cromwell, Protector and Puritan, they deemed their religion secure, and afterward, till the Charter was obtained, usually called themselves a Colony. This would seem to show that they sought religious privilege more than independence.

Those who fled from England to this country were compelled to do so, or observe certain rites and ceremonies of the English church which they believed unscriptural and therefore wrong. They objected to the cap and surplice, the ring in marriage, the cross in baptism, the rite of confirmation, kneeling at the Lord's supper, etc. The people of Connecticut, living in the woods, and having unrestricted power to choose, resolved to worship according to their convictions, omitting all not in harmony with their belief. They did not contend for religious liberty as a principle, but practical liberty for themselves and their children; liberty to serve God, not in the manner of the churches at home, but in the way "now practiced amongst us." They denied the right of coercion in defense of religious error, but solemnly affirmed it when the true faith (meaning their own) was in jeopardy. Their English oppressors denied and affirmed the same things. That they might pursue their own liberty as here set forth and defined, protect the forms and practices then in use, and sup-

press whatever should threaten to displace them, all by the civil power, "according to God," they assembled in convention as has been stated. Their purpose and ruling motive are plainly announced in the preamble, thus: We, etc., "do enter into combination and confederation" "to maintain and preserve the liberty and purity of the gospel of our Lord Jesus which we now profess, and also [to maintain] the discipline of the churches which, according to the truth of the said gospel, is now practiced amongst us." The object—the primary object—here so conspicuously set forth, so far as good sense and a dependent condition permitted, was faithfully carried out in the legislation which followed. Nothing is said in the preamble of political rights or civil liberty, and nothing special on the ends of civil government; but the sentence which immediately succeeds the last quotation reads as follows:

"As also in our civil affairs to be guided and governed according to such laws, rules, orders and decrees as shall be made, ordered and decreed."

The work done with so much cruelty by the ecclesiastical or spiritual courts in England, was, in Connecticut, committed to the hands of the civil power, not formally, but by implication. Devoutly, no doubt, those who entered into combination believed that conformity and the discipline of the churches should be rigidly maintained—maintained, not by a high commission court, not by the church or its officers exercising judicial functions, but by the civil authority alone, according to the laws and orders of the General Court, or in the absence of law, according to the word of God. A government established to control the will in matters of conscience could not be a free government; nor could conduct thus controlled have the smallest merit. It is but truth, however, to say that the laws of Connecticut and their administration were more merciful and enlightened than those of the mother country; but not much that is good could be expected from either source so long as religious liberty was not recognized as a principle. Its denial was the calamitous mistake, the crowning blunder of the age.

I am afraid Dr. Trumbull, a very honest man, is responsible

for much of the misapprehension which has prevailed relative to the purposes, opinions, institutions, and practices of our pilgrim fathers, in their bearing on the great questions of liberty and conscience. I quote from the first (and best) volume of his History of Connecticut, 1797:

"The settlement of New England, purely for the purposes of religion, and the propagation of civil and religious liberty, is a event which has no parallel in the history of modern ages." The people of Connecticut "formed one of the most free and happy constitutions of government which mankind have ever adopted." They "provided for the freedom and liberties of themselves and their posterity, guarding against every encroachment on the rights of the subject." "It was the design of the first planters to erect churches, * * and to transmit evangelical purity in doctrine, worship, and discipline, with civil and religious liberty to their posterity." (pp. 1, 2, 97, 292.)

An eminent modern writer (Dr. Leonard Bacon) presents a different view, but one entirely conformable to the facts:

"The Puritan's idea was not liberty but right government in church and State—such government as should not only permit him, but also compel other men to walk in the right way. For that he went into exile," etc.

But this view does not differ from that entertained by other ecclesiastics, each assuming and believing that his and his only is the "right way." In the forum of conscience the right way is that which a man's own conscience approves, not that which meets the approval of other consciences, however respectable. To the Puritan's idea, as above defined, Whitgift, Bancroft, and the relentless Laud, no doubt would have subscribed heartily. That idea kindled the fires of Smithfield. Wherever those in power have thought it their duty to "compel other men to walk in the right way" in matters of religious faith and discipline, there oppressors have abounded.

Dr. Trumbull makes another statement which should be noticed in this connection.

"The fathers of Connecticut," he affirms, "rejected with abhorrence the doctrines of the divine right of kings, passive obedience, and non-resistance," etc. (Hist. i, 297.)

I can find no evidence that warrants this strong language. As I understand it, our Puritan ancestors did not object to the divine right of kings, or complain of their government, till the kings began to rule oppressively, using power (which, in one sense, is always divine) unscrupulously and on the wrong side. Like others, they did not believe that any government, whatever its origin, held an authoritative commission to do wrong. They fled from England, not because they abhorred the doctrine of divine right, but that they might have liberty to worship in their own way. In the language of Dr. Bacon, they were in search of "right government in church and State—such government as should not only permit them, but compel other men to walk in the right way."

The Constitution has eleven Articles. I shall speak of them in the order most convenient. As if to fill with terror the hearts of transgressors, each (with one unimportant exception) begins thus: "It is ordered, sentenced, and decreed." The first provided that there should be two general assemblies or courts yearly, one on the second Thursday of April, the other on the second Thursday of September. At the first, called the Court of Election, were to be chosen for one year, by the assembled freemen of the jurisdiction, not less than six magistrates besides the Governor. They were to be freemen, and were elected one at a time, by ballot, the Governor first. All must have been propounded at some previous General Court. Having been sworn, they had "power to administer justice according to the laws here established, and for want thereof according to the rule of the word of God." "The laws established and the word of God" having been declared the rule, there could, of course, be no other law. Thus was set aside all English law, whether statutory or common. Except incidentally, nothing is said here or elsewhere about the magistrates exercising other than judicial functions.

As special qualifications, the Governor was to be "a member of some approved congregation" (not *church*, as Dr. Trumbull and Dr. Palfrey have it), and must once have been a magistrate. As a curb to his ambition, and perhaps to give others a chance

to attain equal distinction, he could not hold his office oftener than every other year. Thus was prevented possible discontent similar to that which Governor Winthrop's prolonged continuance in office occasioned in Massachusetts. The Governor was the honored head of the magistracy, presided at the meetings of the Court of Magistrates and of the General Court, but had no power distinct from his associates. No special duty was assigned him, except that of warning (through the secretary and town constables) the "two standing General Courts;" and he might, on urgent occasions, with the consent of a majority of the magistrates, call special courts. No deputy-governor is provided for by the Constitution, but the first magistrate (after the Governor) is constantly recognized, by the recorders, as holding that office.

To the aforesaid Court of Election, the towns were required (Order 5) to send their deputies, "and when the election is ended, they [with the magistrates] may proceed in any public service, as at other courts." The General Court of September, also, was "for the making of laws, and any other public occasion which concerns the good of the Commonwealth." All the members of both classes sat and voted as one body, the Governor, in case of a tie, having a casting vote. He could not adjourn nor dissolve the Court.

Each of the towns then in existence might send four deputies, twelve in all, and the towns yet to be made "so many as the Court shall judge meet, a reasonable proportion to the number of freemen." They must themselves be freemen, and were elected for each of the regular courts, twice in the year, by ballot. The electors were not the freemen, as assumed by Dr. Trumbull, but the "admitted inhabitants" of the several towns. Mere "residents," though recognized as a rightful element of the constituent body, and presumably disposed to take care of themselves, the convention sat down on heavily, no doubt with design, and perhaps by invitation. They had no vote, and thenceforth (politically) were extinguished. It is true they could be made inhabitants and voters if the towns willed it, but I presume the will would have been wanting if the appli-

cants were "Quakers, Ranters, or such-like notorious heretics," or if they refused to conform to "the discipline of the churches" as "now practiced amongst us," however unexceptionable they otherwise may have been.

The constitution-makers probably felt constrained to allow the towns to elect their deputies by a majority vote of the admitted inhabitants, because the town-officers, and those in the service of the towns, had always been chosen in that way; but they evidently intended, as far as possible, to make the freemen who, as a class, had no voice in the convention, the constituent body, the fountain and ultimate custodians of all power. Hence it was provided that no person should be nominated for the magistracy till he had been propounded by the General Court; that all the members of the Court, Governor, Magistrates, and Deputies, should be freemen, and that they alone should admit freemen; that new towns should send deputies in proportion to the number, not of admitted inhabitants, but of their freemen; that the deputies, in giving votes and making laws, should have the whole power of the towns, leaving to the latter only the right to elect from a qualified and much favored class among themselves (the class of freemen) their own deputies.

A mere inhabitant, though a principal actor in the convention, could not become a member of the General Court. He was disqualified. Consequently, he could not, directly, or through another of his own class (politically), have a voice in the legislation by which he was governed. At first, if of good reputation, and afterward if competent in estate, he could be made a freeman, and so regain his rights, if the freemen of the General Court assented; but it is safe to say they would not assent if the candidate were a heretic, or if in practice he set at naught that discipline of the churches which the Court was bound to maintain. In this manner, doubtless, it was expected that the law-makers, without a provision requiring electors to be church-members, would be able to exclude from their own body unsound and hostile elements, and so to shape legislation as best to attain the ends set forth in the Constitution. In civil

affairs, no man (in theory) was allowed to enjoy the smallest privilege, or to exercise the least authority, in virtue of his ecclesiastical standing or connection. That connection gave him character, influence, moral power, but no right or privilege in law. It was thought, perhaps, that churches had enough to do to train the youth, and fit all classes for their duties, religious and political, without taking a part in civil administration. Except as the wards of the government, they are not so much as named in the instrument promising them protection. The nearest approach to it will be found in the fourth fundamental order, where the Governor was required to "be always a member of some approved congregation." But as, in practice, all the people in each town were legal members of the congregation, this requirement was superfluous.

The freemen of Connecticut under the Constitution were a kind of popular aristocracy, holding a midway station between the plebeian and patrician classes. Supported, seemingly, by both, they became the trusted pillars of the Commonwealth. Evidently, they were not numerous. What their number was when the Constitution was adopted is unknown; but in the first ten years which followed, I cannot find that more than twenty-three were admitted. During the whole life of the Constitution, from January, 1639, to October, 1662, nearly twenty-four years, two hundred and twenty-nine admissions are on record; while the increase of population may have been three thousand, one-quarter of them males of legal age. The facts indicate that only a small proportion, certainly a minority, of those of twenty-one years and over, were freemen, some of them, doubtless, because they did not desire the honors, if they must also bear the burdens. In Massachusetts, where none but church-members voted, the freemen in 1670, according to Palfrey, were only one in four or five of the male adults. (iii, 41.) In Plymouth Colony the people were so indifferent that it was customary "to persuade, sometimes compel them, to be free." (Narrative of the Royal Commissioners, 1666.)

Dr. Trumbull, who is not often in error, says that the Constitution "provided that all persons, who had been received as

members of the several towns, by a majority of the inhabitants, and had taken the oath of fidelity to the Commonwealth, should be admitted freemen." He would have written more exactly had he said that all persons thus received *might* be admitted by the General Court. That instrument did not, in a formal way, authorize the regular courts to make freemen, but they assumed and exercised the power. The business was usually done at the Courts of Election, in April or May, and sometimes by magistrates designated for that service. (Conn. Col. Rec., i, 36, 47.)

Massachusetts and afterward New Haven endeavored to give the highest excellence to their political institutions by requiring freemen and voters to be church-members, a rule which excluded a majority of the people, and established a privileged ecclesiastical order; but the planters of Connecticut, also the friends of good government as well of limited suffrage, assumed that the desired end might be more safely attained in another way, as we have seen. They may have suspected that men elected to office by a church-constituency would represent the churches rather than the Commonwealth, and might, in a possible contingency, be tempted to clothe those they represented with dangerous power, and perhaps to establish spiritual courts, of which even the name caused a shudder.

In the abstract of a sermon deciphered by Mr. J. H. Trumbull (Conn. Hist. Soc. Coll., i, 20), preached in May, 1638, probably to prepare his hearers to act on the Constitution soon to be offered, Mr. Hooker is made to say that "the privilege of election belongs to the people;" "that the foundation of authority is laid in the people;" and that they who choose officers and magistrates may "set the bounds and limitations of the power and place unto which they call them."

The men who framed and adopted the Constitution were doubtless influenced largely by the views announced in these brief sentences. In laying the foundations, they recognized the people as the fountain of all just authority, but in the progress of the work forgot the principle at first conceded. In effect they divided the population into classes, conferred special priv-

ileges, and gave their sanction to a system of exclusiveness, with disabilities in certain cases,—all of which was seemingly inconsistent with a government instituted for the equal benefit of the whole people and their successors.

In the beginning, orthodox opinions, a good reputation, a frightful oath to be faithful, and an affirmative vote of the town or General Court, qualified a person, in one case to be an inhabitant and to vote for deputies, and in the other, to be a freeman and vote for magistrates; but ere long the standard of qualifications was raised, for good reasons as I surmise. In February, 1657, the General Court declared "that by admitted inhabitants, in the seventh fundamental [law], are meant only householders that are one and twenty years of age, or have borne office, or have thirty pounds estate." Two years later (March, 1659), soon after seventy had been made freemen at one session of the Court, and sixty-five at another,—a number largely more than half of all admitted in twenty-three years under the Constitution—it was ordered that all candidates for that distinction should "have thirty pounds of proper *personal* estate, or have borne office," "being men of an honest and peaceable conversation," as evidenced by certificate of the deputies. Later still, the towns were required to observe the "honest-conversation" rule in admitting inhabitants (Col. Rec., i, 290, 293, 331, 351).

Probably the plantations, at this time, as mentioned on a preceding page, were suffering from an irruption of unbidden and disreputable characters, who put in peril the institutions and the morals of the Commonwealth; so that the Court to avert impending calamity imposed new restrictions, first on the towns, then on itself, when conferring the political franchise. Thus the semblance of the universal suffrage to which the Constitution gave countenance was abruptly removed by an important property qualification. Thirty pounds was a large amount in those times, especially of personal property. Judging from the lists of persons and estates at a little later period, I conclude that the average taxable property belonging to each family did not exceed sixty pounds, much or most of it land.

The course pursued in this matter seems to show that the General Court, after twenty years' experience, was looking with favor on the once discarded views of the elder Governor Winthrop as given in a letter to Mr. Hooker, August, 1638. He "expostulated about the unwarrantableness and unsafeness of referring matters of counsel or judicature to the body of the people, *quia* the best part is always the least, and of that best part the wiser is always the lesser." (Savage's Winthrop, ii, 428.)

The thirty-pound qualification required of those who would be made freemen, seems to have closed the door to the class which the General Court wished to exclude. I cannot find that more than three were admitted in the next three years and a half, or till the charter went into operation. Though not democratic, I cannot but think that the restriction, under the circumstances, was a wise one.

Should the Governor, or the Governor and Magistrates, prove false to their masters, the freemen, and persistently neglect or refuse to summon, as directed, either of the standing General Courts, or any special court which "the occasions of the Commonwealth required," the freemen might order the constables to give the necessary notice, and when assembled, said court, "consisting of the major part of the freemen then present or their deputies, with a moderator," was declared to be "the supreme power of the Commonwealth." Thus constituted, the General Court had authority to make and repeal laws, levy taxes, "admit freemen, dispose of lands undisposed of, call either court or magistrate or any other person whatsoever into question for misdemeanor, and for just causes displace or deal otherwise" with them, and do anything "that concerned the good of this Commonwealth," except alter the regulation requiring the magistrates to be chosen by the "whole body of the freemen"—provisions which extinguished any lingering hope, on the part of the delinquent officials, for perpetual office, or hereditary honors. The restriction named is the only limitation to the power of "the major part of the freemen then present or their deputies." It seems to have been made under the apprehension that the freemen of the future might, in some

terrible crisis, commit political suicide, transferring their power and privilege to unsafe hands—to some heretic, bishop, prince, or the pope, who might use his advantage to destroy the "liberty, purity, and discipline of the churches." The decree giving the freemen or their deputies supreme power in effect abolished, in the contingency contemplated, the existing Constitution with all its elaborate machinery, removed the remaining vestiges of town independence, and crushed beyond recognition the class of voters known as admitted inhabitants.

In the preface to the first volume of Mr. Day's "Connecticut Reports," the reporter, writing about the General Court instituted in 1639, proceeds thus: "In this body the Constitution vested *the supreme power of the commonwealth*, executive, legislative, and judicial." Others take the same view, but as I read it, the document referred to did not, formally, invest with supreme power the ordinary courts convened in the usual way, but declared that the extraordinary court summoned at the instance of the freemen, and consisting of "the major part of the freemen or their deputies" only, was thus invested. At this court of freemen, or of deputies representing none but freemen (which was never convened), the Governor and Magistrates might be present as culprits on trial for misdemeanor, but not as members. Without reserve, the Constitution gave to the town-deputies, in making laws, etc., "the whole power of the towns;" but as rarely as possible did it confer power of any kind when the magistrates were to share it. Hence, probably, the General Court as a whole, convened in the approved way, was not pronounced supreme. We should not know, from the wording of that instrument, that the magistracy took any part in the legislative proceedings, were it not for the regulation which required "that every General Court, except such as the freemen themselves do call, shall consist of the Governor, or some one chosen to moderate the Court, and four other magistrates at least, with the major part of the deputies," etc. As I view it this regulation was an after thought. It is not in harmony with the other parts of the Constitution, and is quite inconsistent with Article fifth, which

authorizes the deputies assembled at a Court of Election, after the magistrates had been chosen, to "proceed in every public service as at other courts." The other courts were the September Courts and the special courts. To my mind the evidence is clear that the authors of the instrument did not intend, till the work was finished, to give the magistrates seats in the General Court, or to invest them with any legislative authority. I may be in error, but this is my conclusion after many perusals and careful comparison.

Throughout the Constitution there is evidence that its framers regarded the magistrates with jealousy and suspicion. They feared their ambition, and were resolved to restrain it by barriers not easily surmounted. Their apprehensions had been awakened by their experience and the history of the times. They had witnessed the struggle in Massachusetts between the aristocratic and republican members of the government, the magistrates claiming, under the charter, more power and privilege and a higher rank than the deputies and freemen were willing to concede. Matters came to a crisis when a "council for life" was instituted and a hereditary nobility proposed. (Mass. Col. Rec., i, 167.) On these questions, the chief men of Connecticut were on the popular side, and took effectual measures to circumscribe patrician ambition. A governor who could not hold office more than one year in two, and who had no power to adjourn or dissolve the Court, could not plot successfully for reëlection, and would not be a very dangerous usurper. If he and the magistrates refused to call together the General Court, they could not hope, with profit, to imitate the memorable example of Charles I, who, by a similar device, had ruled England for ten years by his prerogative right alone. Our Puritan ancestors were made of the same stuff as their brethren who, ten years later, cut off the head of the infatuated king. Whatever their faults, they were not chicken-hearted, not over-much given to delay in dealing with criminals. In any event, they were determined to have a government of their own—one that would do their will, preserve the Commonwealth, and protect the churches.

The people honored the magistrates, and especially the Governor, for they represented, not the people, but the Commonwealth and its dignity. They had faith in their ability, integrity, and discretion; confided to them the administration of justice; followed their leadership in opinion, and sought their counsel when in doubt and difficulty; gave them the highest seats in their meeting-houses; exempted them from the poll-tax, and those minor and common-place duties which tend to debase rank; provided them with honorable titles; but would not trust them with political power. As members of the General Court, they were in a hopeless minority. The deputies outnumbered them, not in the judicially approved proportion of "eight to seven," but of twelve to six, the Governor having only a casting vote. The disparity could be increased at will when new towns were admitted. The deputies, then, without resorting to extreme measures, could direct the whole course of legislation. The General Court which they controlled had, practically, no master.

That they might qualify themselves to discharge intelligently their weighty duties, the deputies, as in Massachusetts, had "liberty to appoint a time and place of meeting before any General Court to advise and consult of all such things as may concern the good of the public, and also to examine their own elections," and determine their validity, etc. It was probably intended by this preliminary meeting to give the popular branch of the Assembly opportunity to organize, harmonize, and prepare to take the lead in legislation, and defeat the machinations of self-seekers "born to rule." Their indispensable, ever-present duty was to watch the movements of their more dignified but suspected co-workers in the government.

A cursory examination of the existing Constitution of Connecticut—that of 1818—shows that one of its most important objects is the protection of minorities, or the weaker party, majorities having power to protect themselves. The first Article, with its twenty-one sections, contains the Declaration of Rights—rights which the General Assembly or the consti-

tuted government cannot take away or impair. One of these strikes at the root of an old and sadly notorious evil. It reads thus: "No preference shall be given by law to any Christian sect or mode of worship." In the earlier instrument, there is no declaration of rights. There were prohibitions and limitations, but these were generally against the weaker party. The magistrates were fenced in, restricted in many ways; but the deputies, or the General Court directed by them, had almost unbounded power. There was but a single privilege reserved to the chief actors in the convention—the privilege of choosing deputies—and this might be gobbled up by the freemen, in a certain contingency, as already stated.

The different departments of the government, as now known to us, were, in that of 1639, merged in one. The magistrates were both legislators and judges; and so were the deputies, to a limited extent, while sitting in Court. The two houses, afterwards so called, were not independent bodies, each with a veto on the legislation of the other. The Governor was compounded of dignity and shadow, scarcely having a separate, substantial existence. A bill on its way to the statute-book had before it the perils of but one scrutiny, one ordeal; its defects had but a single chance for detection and elimination. The several expedients which are now adopted to secure thoughtful consideration and the needful delay were not in use. The government was well enough for those who made it. They constructed it for themselves and were satisfied. Always it served well the majority—those who controlled its administration. For the minority, largely interlopers, it is true, it was indeed a hard one. So long as the people were of one mind, one faith, one practice, its opponents looking on at a safe distance, it was guided with wisdom, intelligence, and the severest impartiality; and at a later period, when divisions and dissensions arose, was more tolerant and humane than those with which it has been unfavorably compared.

The Constitution devised a way for practical revolution, if the Governor and magistrates were unfaithful, but made no provision for amendment. If the power to amend could sur-

vive this omission, it must, I think, have resided in the whole people—those who framed and adopted that instrument—if indeed they did not part with it irrevocably in convention. But the right to amend was assumed by the freemen, while changes not prohibited, though of great importance, were made at pleasure by the General Court. If I mistake not, the Court considered itself authorized to do anything not distinctly forbidden by the fundamental law. If this view be correct, it had by right nearly absolute power—power which might be used constitutionally, for the most despotic purposes. The voters could change their representatives at the spring or spring and fall elections, but they could not, perhaps would not if they could, prevent the flagrant abuse of power. Civil, like religious liberty was recognized as belonging, not to all, but to a favored major part of all.

One brave thing, not to be forgotten, the General Court at length did, which had the effect of limiting its own powers and protecting the minority. The unreasoning, narrow-minded prejudice against the magistrate had abated, partly perhaps because of the increasing weakness of the aristocratic party in England. Following the example of the wearied and reconciled factions in Massachusetts, the Court, February 5, 1645, ordered as follows: "No act shall pass or stand for a law which is not confirmed both by the major part of the magistrates and by the major part of the deputies there present in Court, both magistrates and deputies being allowed, either of them, a negative vote." The act was an important concession on the part of the popular majority, and must have contributed much to prevent unwise and hasty legislation. In the making of laws it placed the two rival classes of members on a footing of equality, and it could not be repealed without the consent of both. As the magistrates, the weaker party, would not, unless idiotically or corruptly, permit that, it had the effect of a fundamental law which could not be set aside.

As I understand it, the Assembly was divided for the purpose of taking votes on the passage of laws only, and not for any other business. The members continued to meet as one

body in the same chamber, and proceeded with their discussions and all matters of business as before, till a vote was taken (probably by the erection of hands), when the votes were classified and counted according to law. It is not probable that they left their seats. They were not numerous, numbering at that period from eight to eleven magistrates, and from nine to fifteen deputies.

The usually vigilant Dr. Trumbull seems to have overlooked the order of March, 1645, giving to the magistrates a negative vote.

At the first session after the charter of 1662 went into operation, the General Assembly "declared that all the laws and orders" of the previous government should "stand in full force and virtue, unless any be cross to the Charter," etc. This action, I suppose, continued the practice required by the order of March, 1645, till the session of October, 1698, when the Assembly ordered as follows:

"This General Assembly shall consist of two houses; the first shall consist of the Governor, or in his absence, of the Deputy Governor, and assistants, which shall be known by the name of the Upper House; the other shall consist of such deputies as shall be legally returned from the several towns, ... which shall be known by the name of the Lower House, wherein a speaker chosen by themselves shall preside: which houses so formed shall have a distinct power to appoint all needful officers, and to make such rules as they shall severally judge necessary. . . . . And no act shall be passed into a law, nor any law already enacted be repealed, nor any other act proper to the General Assembly, but by the consent of each of the said houses."

The government established by the Constitution of 1639, acknowledged the validity of both the governments which preceded it. It did so, not formally, so far as appears, but by recognizing the validity, till repealed, of the laws previously existing. The town organizations, however, were dissolved. They gave up all they had, and received back only the right of representation, and that limited. But at the first October Court, all were rehabilitated and richly furnished, though not as independent bodies. Their sovereignty had evaporated and was lost forever.

Chapter II.

Laws mold the character and life of a people. Laws, too, are called into existence by the circumstances and wants of those who make them. Each represents a quality or fact of human nature which cannot be effaced. From a collection of the whole may be obtained a true conception of the political community which acknowledges their authority. Place a bone of an unknown animal in the hands of a comparative anatomist, and he will build up a skeleton, clothe it with flesh, and in a general way depict its mode of existence, habits, and instincts. Much more of the outward actual life may be deduced from the self-imposed laws of an isolated people just beginning political house-keeping. Their intellectual and moral condition, their opinions, customs, vices, virtues, their progress in knowledge, religion, social and political life, may be inferred from their legislation. If men are credulous, superstitious, narrow-minded, intolerant, quarrelsome, or corrupt, their own laws will declare it. These laws, enacted in great variety, are a mirror in which may be traced, by reflected light, the venerated lineaments of the fathers of Connecticut. With a few exceptions at the outset, the crimes and wrongs which from time to time they prohibited, the evil practices and sins of every grade they forbade, were those which had appeared among themselves. Their authentic history, not quite complete, might, I think, be written from their enactments alone. From among these, a scattered and somewhat tangled mass, I have selected for comment such as would best illustrate certain leading characteristics, some of which have been misunderstood or misrepresented. One of my special aims will be to show, as truthfully as I can, how much liberty, particularly religious liberty, the early planters permitted among themselves, and how much they allowed to others.

One would naturally think that a few hundred plain, square-dealing, hard-working farmers, leading a domestic and for the

most part a quiet, unambitious life—men having little trade and no complicated business relations, and associated chiefly for religious improvement and mutual defense—would not need more than the simplest form of government and a minimum supply of legislation. But the General Court which they instituted, and to which they surrendered all power, temporal and spiritual, thought differently.

After recovering from the burdens and privations which the Pequot war made necessary, the colonists prosecuted with occasional interruption the important work which they had undertaken. While setting up churches in accordance with their convictions, and establishing a civil government for their preservation and defense, they were not the men to neglect their practical and material interests. So soon as a fruitful soil, with the aid of imperfect appliances, could be brought under cultivation, industry, frugality, and good management secured comparative abundance. So prosperous did they become that extravagance and fashion, ridiculous as they may seem, were introduced. The General Court was alarmed. Hoping to suppress a dangerous evil, and finding that a previous order (not recorded), designed to restrain "excess of apparel," was unheeded, "divers persons of several ranks" continuing to offend, it bestirred itself. As early as April, 1641, the constables of the several towns were directed to take notice of any whom they "judged to exceed their condition and rank," and to present them to the particular court for "censure," a form of punishment more dreaded then than it would be now. Probably the law was a failure, for it is not found in the Code of 1650. But some unrepealed laws of prior date appear to have been continued in force, which are not embraced in that collection.

At a later period, in the beginning of the Indian war of 1675, the General Assembly, hoping to win Divine favor and remove the impediments to success, passed several laws aimed at the more glaring sins of the time. One of them begins thus: "Whereas excess of apparel is unbecoming a wilderness condition and the profession of the gospel," it is therefore ordered that whoever

"shall wear gold or silver lace, or gold or silver buttons, silk ribbons, or other superfluous trimmings, or any bone lace above three shillings per yard, or silk scarfs," shall be set in the lists of estates at one hundred and fifty pounds, on which sum they shall pay rates; but the law was not to extend to magistrates or like public officers, nor to their wives and children, nor to commissioned military officers, nor "to such whose quality or estate have been above the ordinary degree though now decayed." It was "further ordered that all such persons as shall for the future make or wear or buy any apparel exceeding the quality and condition of their persons and estates, or that is apparently beyond the necessary end of apparel for covering or comeliness," should forfeit for each offense ten shillings.

In connection with a similar law, high-stepping Massachusetts, by its General Court, declared its "utter detestation and dislike that men or women of mean condition should take upon them the garb of gentlemen, by wearing gold or silver lace or buttons, or points at their knees, or to walk in great boots," "leather being so scarce," "or women of the same rank to wear silk hoods or scarfs, which, though allowable to persons of greater estates, or more liberal education, we judge intolerable in persons of such like condition," etc. (Mass. Rec., iv, Part I, 60.)

The Connecticut Assembly further ordered that the prices of provisions should be fixed at each session of that body, "according to true intelligence from Boston," and to prevent "oppression," merchants and traders were not to take more than twopence in the shilling for "profit, charge, and venture," for goods bought with "ready money" in Boston, or other like market, the penalty being treble that of the unlawful exaction. (Manuscript copy of the laws in the Library of Yale College.)

As suggested, several other reformatory acts were passed at the May session, 1676. One, to prevent profaning the Sabbath, "rooting out the power of godliness," required that any person "found sporting in the streets or fields on Saturday night, or on the Lord's day night, though after sunset," should, on conviction, pay a fine of five shillings, or suffer corporal punishment. Another forbade "profane discourse or talk, or

rude or irreverent behavior," or servile work, except works of piety, charity, or necessity, "on that holy day." Another recommended that the ministers and selectmen should "look into the state of families," and ascertain whether "reading of the Scriptures, catechizing of the children, and daily prayer with the giving of thanks by every Christian family, were conscientiously attended to," "the neglect of which is a great sin, provoking God to pour forth his wrath on such families." If "any heads of families were obstinate or refractory, or would not be reformed, they must be presented by the grand jury to the county court to be fined, or punished, or bound to good behavior," etc. Another required that disorderly "young persons who got from under the government of parents or masters before they were able to govern themselves" should "carefully attend the worship of God in the families in which they were boarders or sojourners, be subject to the family government, and at all times be ready to give an account of their actions, or forfeit five shillings for every breach of the order." Other laws were provided for other classes of offenders.

It was a critical period in the history of New England, and impending dangers explain these vigorous assaults on notable and prevalent sins. The war with King Philip and his confederates, now skilled in the use of fire arms, was a desperate one, and threatened the extinction of this branch of the English family. So great was the need of help that all male persons between the ages of fourteen and seventy were forbidden to leave the Colony without a license. The penalty was one hundred pounds.

Our fathers were accustomed to think that all public calamities—war, pestilence, shipwreck, mildews, blasting of the crops, devastating storms, unseasonable weather, dissension in the churches, etc.—were chastisements for neglected duty or sinful indulgence, and that the divine wrath must be turned aside by repentance, humiliation, fasting, prayer, and an amended life. Hence the reformatory law-making which has been noticed. The Court's endeavors produced little effect,

and as "abounding sin yet remained," the elders and ministers, the next year, were again desired "to stir up and awaken their several congregations to the duty of repentance and reformation."

From the beginning, I am grieved to say, our ancestors used tobacco. The farmers raised it, and naturally enough wanted "protection for home industry." The General Court was beneficently inclined, and as usual looked round for somebody who should be fined. The sufferers were any persons who, without license, should "drink* (that is, inhale or smoke) any other tobacco but such as is or shall be planted within these liberties." The penalty was five shillings for each pound consumed after September, 1641. (Conn. Col. Rec., i, 53.) In January, 1647, the order was repealed, and in May following another passed, indicating a change of mind. The last was aimed at an abuse to be cured by other fines. By its terms, no person under twenty years of age was allowed to use the weed, nor were others, not accustomed to it, permitted to take it without a license from the Court and a certificate from some one skilled in physic alleging his need of it; while those accustomed to it were forbidden to take it in the streets, or fields, or woods, except when traveling or journeying at least ten miles, and then only at "dynner," or at most not more than once a day, and not in the company of another. Nor was any one, in any house in the town in which he lived, allowed to use it "in the company of more than one other who useth and drinketh the same weed at that time." The penalty was sixpence for each offense, to be paid without gainsaying. The constables were charged to look after the guilty, and make presentment. With but little modification, the tobacco law of 1647 was continued in the Code of 1650.

That their institutions might be perpetuated, our fathers began at the beginning, and provided for the training of the children. To circumvent that "old deluder, sathan," who would "keep men from the knowledge of the Scriptures," the

*Says Mr. J. H. Trumbull, good authority: "The viler practice of *chewing* was not yet introduced." *Blue Laws*, p. 135.

Court ordered that every town of fifty householders should employ some one to teach the children to read and write, whose wages should be paid by parents and masters, or by the town, as the selectmen should determine. Towns of one hundred families were directed each to set up a grammar school where youth might be fitted for the university (at Cambridge). Another order required that "all masters of families should once a week at least catechize their children and servants in the grounds and principles of religion," or if unable to do that, cause them to learn some short orthodox catechism so as to answer questions propounded, etc. That the law might not fail, the selectmen were commanded to "have a vigilant eye over their brethren and neighbors," and to see that the law was obeyed. The penalty for neglect on their part was twenty shillings. (Conn. Col. Rec., i, 520, 554.)

Naturally enough, young men, the hope of the church and commonwealth, and too often a vexation to their friends, were regarded with solicitude and even suspicion. Like their successors, they were often irreverent, wayward, and unruly. They escaped from parental control, were indecently tardy in choosing their mates (marrying), and sometimes contracted vicious habits. Assuming the vacated office of parent, guardian, and master, the government (for their edification and as a reminder of neglected duty) passed a stringent law, first in Feb., 1637, which, Dr. Stiles says, was executed in Windsor. Apparently, it was designed for youth without rank or position in society, and therefore without right to special privileges. It forbade any unmarried "yonge man," having no servant and holding no office, to "keep house by himself, without the consent of the town where he lived, under pain of twenty shillings per week." The like penalty was incurred by the master of any family who took him in and entertained him as a sojourner. In 1702 (see the revision of that date), the master was not fined, but the erring youth whom he sheltered was required to attend the family worship, and submit to family government, or forfeit five shillings for each offense.

In addition to this hard treatment, to help suppress his

exuberance, he was compelled, at sixteen, to take the oath of fidelity, perform military duty, pay a burdensome poll-tax, and forego the privileges of a freeman till twenty-one years of age. Not till 1821 was the luckless bachelor set at liberty, and allowed to do as others might.

The idea embodied in the foregoing law seems to have been taken from a Massachusetts order passed in 1636.

The detestation with which our fathers regarded the sin of gaming was naturally enough extended to its symbols. Desirous that the people should know what games were "altogether unlawful, in the very nature of them," the General Court, February, 1657, "ordered that if any person or persons, of what rank or quality soever in this jurisdiction, shall, after the publishing of this order, play at cards, dice, tables [backgammon], or any other game wherein that great and solemn ordinance of a Lot is expressly and directly abused and prophaned, the persons playing, or that shall play, more or less, at any of the aforesaid games, shall pay for every offense twenty shillings apiece to the public treasury, and the head of that family where any such game shall be used or played (if he or she know of or allow any such playing in their house or houses) shall pay in like manner twenty shillings for each time any such game is played in part or whole." If the playing were without the knowledge of the head of the family, the "gamesters or players" were to pay both the fines, or forty shillings, for each game, one-third to go to the informer.

This law, without important change, is found in the Revision of 1808. A penalty of seven dollars had been added in 1784 for every pack of cards sold or kept for sale. The boys, notwithstanding, got hold of them and played "old sledge" with zest, in the greatest possible privacy. The act did not survive the Revision of 1821.

Lying was justly considered a "fowle and gross sin, ... some sorts not only sinful, but pernicious." According to the record, it was beginning "to be practiced by many persons in the commonwealth" as early as February, 1641. I fear it began earlier, but at that date a committee was appointed "to

consult with the elders of both plantations to prepare instructions," etc. A temporary order against the sin was passed in September, 1641. It authorized the particular court to punish by fine or corporally, at discretion. In the code of 1650 the Massachusetts act of 1645 was copied. It provided that any person of fourteen years of age and over who should wittingly lie to the injury of another should pay a fine of ten shillings, or, if he could not pay, be set in the stocks, in some public place, not exceeding three hours. For the second offense, the penalty was twenty shillings, or whipping not more than twenty stripes; for the third offense, forty shillings, or more stripes, not exceeding thirty. Thereafter, if the lying were repeated, the offender, man or woman, must, on each conviction, pay an additional fine of ten shillings, or receive "five or six more stripes than formerly, not over forty at any one time." If children under fourteen sinned in the same way, they were to be duly corrected by their parents or masters, in the presence of some public officer (if the magistrate so decided), who would see that the work was properly done. (Conn. Col. Rec., i, 538.)

The sort of work, in another direction, which the General Court thought itself called on to do, without questioning its own competency, may be illustrated by an example. In February, 1641, the law-makers, finding the soil would produce hemp and flax, much needed for their own uses, ordered "every particular family to procure and plant this present year at least one spoonful of English hemp seed, in some fruitful soil, at least one foot distant betwixt every seed, the same to be preserved and kept for supply of seed for another year." It also ordered that "every family that kept a team should sow the second year at least one rood of hemp or flax; and every person that kept cows, heifers, or steers was to sow twenty perches; and every family without cattle to sow ten perches." When the planting season arrived, it was found that there was not enough hemp seed to go round; so the Court ordered that those who had more than a spoonful, and would not sell at a reasonable rate, should themselves plant their surplus spoonfuls. Those who disobeyed were to "un-

dergo the censure of the Court." An offender under this hemp seed law, standing with bowed head and trembling limbs before the waiting dignitaries of the Court, and receiving stinging censure from the lips of the "worshipful Governor," would be a good subject for a painter.

Any form of good or evil, which was in any way dependent on human conduct, our ancestors thought a proper subject for legislation. If the wages of labor or the prices of commodities were, in their opinion, too high, it was assumed that they could and should be reduced by law. Like many of our day, the people had little faith in free-trade, and would not wait for the equalizing effects of competition. They did not believe that a good could be attained or an evil eliminated by the natural and free working of self-interest. To get out of him the best results, a man must be goaded on by the fear of punishment. If he claimed the right to do as he would with his own—to dispose of his goods or services for more than public opinion considered them worth, he was the enemy of the people, and must submit to the dictation of the General Court. The law-makers seemed not to know that the course pursued tended to reduce the supply of the things desired when greater abundance alone could secure the coveted cheapness. We may think them ignorant, but they were not more so than their contemporaries, and were quite as wise as the Congress of the United States which, a few years ago, attempted to check the rising premium on gold by legislative penalties.

Then, as now, there were extortioners and oppressors—men of sordid natures who took an unfair advantage of their more needy brethren. Nowhere is there honesty, religion, or conscience enough to prevent those who have a monopoly from using it selfishly, in some cases wickedly. At an early period, there were but few skilled workmen in the colony. When there was more work than they could well perform—a greater demand than supply—they would not sell their indispensable services except at high rates. It is not probable there were combinations or strikes; these are modern inventions. The General Court, fixing its attention on the swollen wage-rate,

undertook to apply the legislative panacea. At an early period, having the example of Massachusetts, it passed an act regulating the work and wages of laborers and artificers, which, in June, 1640, was continued "during the pleasure of the Court." In February following the order was "dissolved," as the record says, perhaps because it was not needed in the winter season. (Conn. Col. Rec., i, 52, 61.)

Four months later, June, 1641, the Court, having waited for reformation, "hoping men would have been a law to themselves," again interfered. The act passed shows how the planters were engaged, and what classes of workmen were in most request. They were building houses and barns for shelter, making and repairing implements of wood and iron for agriculture and war, providing casks for pork, beef, home-brewed ale, and tar, and pipe staves for exportation. It will be observed that there were as yet no tailors (or none named); no hatters, barbers, dressmakers, or milliners of either sex. The act provided that "sufficient and able carpenters, plow-wrights, wheel-wrights, masons, joiners, smiths, and coopers should not take above twenty pence for a day's work from the tenth of March to the tenth of October, nor above eighteen pence for the other part of the year, they to work eleven hours in summer, and nine hours in winter." Mowers might receive twenty pence a day; other artificers, handicraftsmen, and chief laborers, not more than eighteen pence a day in summer, and fourteen in winter. For "fower of the better sorte of oxen or horses, with the tacklin," four shillings and ten pence a day might be taken from March to October, and four shillings for the rest of the year. Six hours were to be reckoned a day's work from March to May, eight from May to October, and six from October to March. Any person giving or taking greater wages for men or cattle than here allowed was to "abyde the censure of the Court."

In March, 1650, these regulations, and also those establishing the prices of corn, were repealed; but when no agreement was made, a former order which valued wheat at four shillings, rye and pease each at three shillings, and Indian corn at two

shillings and sixpence, per bushel, continued in force. At about these rates—which were, say, one-third higher than the specie rates—the articles named were used as the common currency. They were also received for taxes, placed in storehouses, and paid out again to the public creditors.

If we examine the above figures carefully in order to compare old times with the new, we shall find that a skilled workman, in 1641 and afterward, could earn wages enough in one day of ten hours to buy one-third of a bushel of wheat, one-half a bushel of rye or pease, six-tenths of a bushel of Indian corn. To-day a skilled laborer working ten hours for two dollars will receive sufficient to purchase at present prices, in New York, one bushel and two-fifths of wheat, two and a half of rye, and three and a half of Indian corn. These, the last mentioned ranking first and the first last, with the products of the dairy, were the most important articles of food two hundred and forty years ago, and long afterward. They afforded abundant nutriment for a laborious, hardy, prosperous, and prolific people, among whom poverty was rare, and begging unknown; and yet their successors, getting from four to six times as much, often complain that the times are hard, and they can scarcely live. A day's work at one dollar will now procure nearly two-thirds of a bushel of wheat, a bushel and one-eighth of rye, and a bushel and three-quarters of corn. If we measure the wages at the two periods by the clothing they would purchase, the contrast will be still more striking.

Figures scarcely less instructive may be obtained by comparing the maximum salaries paid to ministers, soon after the settlement of Connecticut, with the maximum paid now. At the former period the highest was about one hundred pounds in sterling money, or four hundred and forty-four dollars, and the lowest fifty pounds, sterling. It should be observed, however, that the minister had the use of lands set apart in the beginning for his improvement, and a share in the common lands. A house, too, was usually built for him on his settlement.

In 1662 Massachusetts, without the shadow of authority, set up a mint. Thence came the famous Bay or pine-tree shilling,

short in weight to the extent of twenty-five per cent. This at length filled the channels of circulation, driving away other and better coin. It obtained a currency in Connecticut, and about 1680 became the standard of value. As a measure it took the place of the English shilling. Twenty of them made the New England pound, worth three dollars and thirty-three cents, instead of four forty-four. Thus, the hundred pounds salary became equal to three hundred and thirty-three dollars and thirty-three cents, and the dollar equal to six shillings instead of four and sixpence as previously. When the still greater swindle of irredeemable paper money was introduced by Massachusetts, in 1690 (Connecticut following the example in 1710), the pound was further depreciated, as the paper issues increased, till it had a value in 1754 of not more than one and sixpence. Those who write or read New England history should remember the uncertain character of the money in use. Dr. Trumbull forgets it, and so does Dr. Palfrey. The latter's ancestor, William Palfrey, in 1745, bought a pound of tea, paying thirty shillings. The price seemed extravagant, and as the purchaser was frugal in his habits, Dr. Palfrey, for the most part a careful historian, thoroughly equipped for his work, concludes that the tea was obtained for sickness! (History, ii, 66.) Thirty shillings was then worth a little over a dollar in our money.

The increased reward which the laborer of to-day receives represents the conveniences and luxuries which he can command in excess of those enjoyed by his predecessors. All this excess is due to accumulated capital employed productively, and the discoveries and improvements which capital makes possible. Trade, science, literature, art, invention, and trained skill are called into existence by capital, and would soon perish without it. Those who spend it in riotous living, sink it in unprofitable enterprises, or waste it in other ways, are the enemies of those who have none of their own, and live on wages. The want of capital, in early times, made it needful that all of suitable age, men, women, and children, should be manual laborers, and all producers of what are called the necessaries of life. On no other condition could a family be supported.

The specimens given are not unfair examples of a part of the legislation which was common in Connecticut and elsewhere in the seventeenth century. Naturally the people modeled their laws somewhat after the forms which had been approved and adopted in Massachusetts—forms which, to some extent, were probably the result of their own deliberations before removal. Haynes, Ludlow, and Hooker, the ruling spirits in the new settlements, were among the leaders in the older Colony. They reproduced in one place what they and others had produced in another, making such changes as observation and the altered circumstances required. Their Constitution proves that they were not slavish imitators. It is true that twelve out of their fourteen capital laws were copied, verbatim, from the Code of Massachusetts, but the law-givers of Massachusetts, without fault or discrimination, themselves copied from the books of Moses. As a borrower, Connecticut usually acted with judgment and discretion, taking not all that was offered, but selecting whatever seemed, under the circumstances, fittest and best. It made mistakes, however, some bad ones, as it still does.

Conformably to the custom of the times, Connecticut legislation was minute, often trivial, capricious, and most of it of the kind called special. It was crude, confused, in many cases ill-adapted to the end sought, and too rarely governed by any well-settled principles. Inquisitive, often inquisitorial and oppressive, it invaded personal rights, and pushed its way into private business and the family circle, pursuing and annoying where it could not overtake. Impotently, it strived to control conduct which could never be known, which was beyond its proper jurisdiction, and with which interference was unwarranted intrusion. It did much that was unwise, and vainly attempted to do more. In all directions and at every turn the hapless individual was opposed by vexatious laws. If heeded, they were enough to worry the life out of him. With less than the usual exaggeration, it may be said that the people had no rights which their rulers felt bound to respect. The blind led not the blind, but those who saw—saw clearly, perhaps,

when their guides stumbled and blundered. If by a free government is meant one which permits and guarantees as much liberty as is consistent with order and the equal liberty of all, that of early Connecticut, though democratic, was not free. Yet it probably secured as large a share of that vaunted and exhilarating element as any then in existence. Perhaps I should except Rhode Island, but my impression is that Roger Williams and his associates had more liberty than they could appropriate or utilize, and more than was compatible with an orderly and efficient government. Connecticut did not lack efficiency; but, to alarm and deter offenders, it sometimes made laws which it did not intend or attempt to execute—an unwarrantable proceeding. At a later period, in a time of peril and apprehension, when impending judgments must be looked for, the ministers and pious people pointed to "neglect in putting into execution good laws against immoral offenders," as one of the "crying sins" of the day. To cure the evil, the Assembly, May, 1704, in the midst of a French and Indian war, ordered that "in every county a sober, discreet, and religious person should be appointed by the County Court to be attorney for the Queen, to prosecute and implead in the law all criminal offenders," while the ministers were directed to stir up the people to endeavor a reformation.

When it was found that the law of Moses was better fitted for the ancient Jews than for the English planters in the wilds of Connecticut, some improvement took place; but the courts of justice, floundering in the dark, always exercised a large discretion. In most cases, no doubt, substantial justice was done, but not in a very scientific way. Setting aside the common law of England, and ignoring precedents, the law-givers, in their novel situation and lack of experience, had no guides but common sense in limited supply, and the dim, divine light from above. The deputies who controlled or might control legislation, were, for the most part, plain, hard-working farmers of good natural endowments, whose special training and course of thought had not fitted them for legislative duties. Their whole time, not needed for Bible reading and religious

exercises, was required for the tilling of their farms and the support of their wives and children. With these disadvantages they became members of the General Court, and for the first time, perhaps, were clothed with political power. Usually they did not hold office long enough to become familiar with its duties. With their new responsibilities they must often have felt embarrassed; but they did not hesitate on that account to do business, and to do it with a purpose. Like others, seemingly, they found pleasure in the exercise of unlimited authority, and at the same time had unbounded confidence in the sufficiency of law. Nor did they believe in the captivating dogma that the world is governed too much. Their own liberty, so much prized, they hoped to preserve by illiberal restriction and coercion. Having the views and qualifications mentioned, it is not strange that their enactments were marked by the characteristics named.

Though given to law-making and fond of laws, the early planters were suspicious of lawyers. The General Court would not allow them to plead as attorneys in behalf of those accused of delinquency. The order was disregarded, and in May, 1667, the Court enacted that any person who should have the boldness "to plead or speak in behalf of one on trial for delinquency (except with leave and on a matter of law), should pay ten shillings, or sit in the stocks one hour for each offense." If good lawyers had been encouraged, I think the laws would have been fewer and vastly better.

Medical men were licensed by the General Court. Several of the clergy were distinguished surgeons and physicians, among them Gershom Bulkley of Wethersfield, and Israel Chauncy of Stratford.

As is well known, the first settlers of Connecticut were rigid Calvinists, and their lives were in harmony with their convictions. In their view, man, by nature, was wholly depraved. There was no goodness in his heathen heart. The flesh and the devil were his daily attendants and deadly enemies. His affections were perverted, his conscience seared, his will rebellious, his soul all over incrusted with sin. So broken down

was he by Adam's wickedness and the fall that, even in his renewed state, he could scarcely pursue his own interest in trade and on the farm without continuous prodding. Unceasingly he must be watched, warned, chastised, and by the ear led back to the path of duty. Those who thought thus naturally believed in future punishment, and not unreasonably supposed that a beginning might properly be made here.

The government stood to the whole people in the same relation as the head of a family to the household of servants and children. It dealt with grown persons much in the way the model school-master did with his pupils when the writer was a boy, but more sternly. The Court's censure was a cautionary box on the ear; the prison was the dark closet; the stocks, the seat under the table; the pillory, the standing on one leg. The cart's tail was any place where the whipping was done. The heavier penalties, reserved for more hardened offenders, of course found no counterpart in the schools for children.

Ten years' experience having shown that the Mosaic law, as interpreted and administered by uninspired courts, did not secure uniform and certain justice, and that purblind juries, without supplemental and more definite rules for their guidance, were a precarious dependence (see Conn. Col. Rec., i, 84, 118), the General Court, in April, 1646, desired Mr. Ludlow, the trusted lawyer of the Colony, to "draw forth a body of laws for the government of the Commonwealth." The work seems not to have been prosecuted with much vigor, but in May, 1650, it was finished and the Code established. Dr. Palfrey thinks Mr. Ludlow had not much to do with the compilation, for the insufficient reason that the record does not show that he was paid for the service, while Mr. Cullick, the secretary, was allowed "six pounds in part payment for his great pains in drawing forth and transcribing," etc. (Conn. Col. Rec., i, 216.) Obviously the work was done by some one who had other qualities than those of a scribe. The Code is introduced by a short preamble and bill of rights, both copied from the Massachusetts "Body of Liberties," or code of laws, prepared by the famous Nathaniel Ward. The bill of rights prohibited the

taking away of a man's wife or children, or his goods or estate, or his honor or good name, or his liberty, "unless by the virtue or equity of some express law warranting the same," "or in case of the defect of a law in any particular case, by the word of God;" but wicked and oppressive laws were not prohibited, nor the law-making power in the least curtailed. Nor could the General Court, having by the Constitution the exclusive right to legislate, bind itself to do or not to do, at another time, anything within the limits of its just authority. It could command the magistrates, its own officers, and the people, but not itself, or not in a way to secure obedience. Sadly the Court needed for its government and guidance a rigorous master; a superior power competent to prohibit, impose restrictions, and define limits which would be respected. The power which was sufficient for this important work, was in the Constitutional Convention of 1639. Unfortunately it was not exercised.

The laws which follow, arranged alphabetically under eighty distinct headings, cover fifty-three printed octavo pages. Largely, those of a frivolous or extravagant character, or of temporary interest, are omitted. In many cases the penalties attached to crime are named, and the power of the magistrates imposing them limited. Often they are quaint, sometimes arbitrary and indefensible, but as a whole are not as severe or absurd as represented. Mr. J. H. Trumbull has done well to make comparisons and state in detail the results. Too long have the wretched inventions of Peters, and the careless statements of more reputable writers, been allowed a place in popular history. (See Trumbull's Blue Laws, 1876.)

The corporal punishments inflicted by the laws of 1650 were not harsh as compared with those authorized by other governments, and in vogue at that date. Whipping was the most common. Oftenest it was prescribed for the poorer, more degraded and thick-skinned classes—those unable to pay fines—and was the penalty for theft. Gentlemen and all bearing the title of Mr. were exempt by custom from this and other forms of corporal punishment. (Trumbull's Blue Laws, 335.) As a class they were much favored in legislation. Fines, floggings,

and the stocks were the lot of swearers, liars, tipplers, inebriates, pound-breakers, etc. For forgery the offender was condemned "to stand on the pillory three several lecture days, and be disabled to give evidence or verdict in any court." Among criminals, those convicted of capital offenses excepted, the burglar and highway robber fared the hardest. For the first offense he was branded on the forehead with the letter B (burglar); for the second, branded and whipped; for the third, put to death. If the crime were committed on the Lord's day, he was to suffer as before mentioned, and in addition lose one ear on the first conviction, and the other on the second. The Indians, too, were used sometimes roughly. They became "bold and insolent," entering the houses of the English uninvited, handling swords and guns carelessly, and endangering limbs and lives. For so doing each was required to pay half a fathom of wampum, and if any injury resulted from his acts, though accidental, he was to forfeit "life for life, limb for limb, wound for wound, and pay for the healing and for other damages." But as a set-off, so to say, against this severity, "one of the teaching-elders was desired, with the help of Thomas Stanton (interpreter), to go among them, at least twice a year, and make known to them the counsels of the Lord," the Governor and magistrates to see the work attended to, and be present if convenient. At a later period, May, 1667, they were forbidden to work or play on the Sabbath within the English limits, the transgressor to pay five shillings or sit in the stocks one hour.

Punishment by imprisonment was not known till 1640, when a house of correction was ordered built.

Leaving out of consideration the capital laws, the worst has been said of the Code of 1650. Collectively, the acts were not barbarous for the times, but it must be allowed that heresy and the division of churches had not yet alarmed the Court.

Hitherto I have been looking for an opportunity to take formal notice of the Charter of Connecticut. The little I have to say may as well be said here. It bears date April 23, 1662, and was granted in a fit of heedless generosity by Charles II, chiefly through the influence of the accomplished Governor

of Connecticut, John Winthrop (the younger). It took the place of the Constitution as the supreme law, giving to the colonists the same government which they had framed for themselves twenty-three years before. By its terms the freemen were authorized to elect a "General Assembly" and all their own officers; "to ordain and establish all manner of wholesome laws not contrary to the laws of England;" and to do a hundred things which men ought not to do, or have the authority to do. Of course the people were delighted with it, as they well might be. By its means their territory was greatly enlarged, and the New Haven Jurisdiction, which, for intelligible reasons, was not in favor at the English court, was put under their government. Thus were political importance and coveted dominion secured without cost or sacrifice to the favored colony. Thus were the men who protected the regicides, and allowed none but church-members to participate in the government, bereaved of their peculiar and much cherished institutions. Not unnaturally the people of Connecticut were lifted up by visions of greatness—greatness thrust upon them, as it were. Surely they had much cause for self-glorification. In the midst of the excitement, October 9, 1662, the General Assembly, or Court of Election, met, its members feeling, doubtless, like a company of boys round a new velocipede owned in common. The Patent or Charter was read, and then the precious document was placed in charge of three trusty persons who were sworn to keep it sacredly. Without delay the Assembly proceeded to weighty business, keeping in mind the enhanced dignity of the older and dominating colony. It enacted that Hartford should be the "settled place for the convocation of the General Assembly;" that "Hartford train-band should have the preëminence of all the companies in the Colony"—Windsor to rank second, Wethersfield third, and "then Farmington;" that the laws and orders then in existence should continue in force; that "a solemn day of thanksgiving" should be observed for the Charter, for the late rain, for the abatement of sickness, "for the hopes we have of a settlement in the ways of peace and righteousness," etc. At the

same time a committee was appointed to go to New Haven "to treat with our loving friends there," while persistent attempts had already been made to divide the strength of the doomed colony by soliciting and accepting in detail the allegiance of portions of its people. In this whole business, without heeding the pledge of Governor Winthrop and the advice of mutual friends, Connecticut bore herself haughtily and discreditably. New Haven and its supporters, though exceedingly humiliated and harassed, behaved with dignity and honor; but after two years of stout resistance, remonstrance, and forbearance, felt constrained to submit. Poor Mr. Davenport, seeing his hopes dashed to the ground, would not be comforted, and soon removed to Boston. The union of the two colonies early in 1665, proved a profitable and happy one; but it might have been effected without a breach of good faith, or any sacrifice of common courtesy. The New Haven settlers were a proud, aristocratic people, sick at the outset, and could not well brook rough usage.

To the union with New Haven, or rather to the accession to the chief magistracy of the last governor of that defunct colony, William Leete, Dr. Palfrey attributes the introduction into Connecticut of "something of the New Haven element of extreme Puritan rigor—an innovation to which his chief associate in the magistracy [Lt.-Governor Robert Treat] was by no means averse. From the beginning of Leete's administration 'the great unreformedness' of the people excited more anxiety; 'provoking evils' and 'crying sins' seemed to multiply; rebukes and threatenings were more remarked; and divine judgments appeared to be more deserved and more certainly impending." But it should be remembered that when Leete became Governor (May, 1676) the New England colonies were in the midst of a terrible war with Philip and his confederates, and that prostration, repentance, and reformation were acknowledged to be the indispensable conditions of successful warfare. I have already spoken of the laws which Palfrey cites as proofs.

Chapter III.

The people of Newtown, when about to leave the Bay, urged as a reason for removal that they could not maintain their minister without more land for their cattle. The reason assigned was scarcely sufficient, but it shows the thought that was uppermost in their minds. In pursuit of the object set forth they plunged into the wilderness, and sought the reputed "El Dorado of the West." All found land enough, of excellent quality, but in the beginning many of them suffered terribly from cold, famine, sickness, and war. Still they persevered, purchased and cleared their lands, vanquished the savage foe, and made heroic sacrifices that they might have an asylum for their religion. To make secure their acquisitions and privileges, they framed a Constitution and enacted laws, swearing rulers and the ruled "by the great and fearful name of the ever-living God" to maintain them inviolate. "All male persons above sixteen years of age," including slaves, I suppose, were required to take the oath. The planters were a distinct community, at the outset a voluntary association, harmonious in opinion, faith, and practice, and owners by right of the territory they governed. Could they not properly organize as they did, and bind themselves to one another and the Commonwealth? If their government and legislation were adapted to their condition, and suited those who were affected by them, who should complain or interfere? Having formed themselves into a political society for their private ends, could they not rightfully exclude from their company meddling intruders whose views and teaching were hostile to their own, and destructive to their institutions, using force when persuasion was not sufficient? A few years ago it was said, with telling effect, that the government had a right to life, and to employ any means, whether constitutional or otherwise, to preserve it. Without emendation, I would not subscribe to that, but there can be no doubt that the (so-called) Commonwealth under Haynes, Hopkins, Winthrop, and others, was

worthy to live, certainly while those who were ruled by it, and who alone could suffer, were in favor of it.

But in this connection other questions press for answers. Can a man control his convictions, fix permanently his belief, and evermore bind himself to it? If he can do this for himself, can he for his children and successors? Could a part of those who instituted the government and made the laws rightfully change the substance or forms of their religion, and on that ground claim a release from their oaths to preserve it as it was? Again, when a people solemnly and devoutly pledge themselves to do certain things, will that pledge justify the doing when more light proves that the truth is sacrificed? These questions, when fully comprehended, are better calculated to spread consternation among the faculties, than call forth satisfactory answers.

Everywhere the practice has been not to permit a few zealots, however conscientious, to undermine the established faith, introduce discord into churches, disturb the public peace, and destroy the beneficent work of generations. I am not prepared to say that the practice, humanely carried out, is wrong. Surely reformers, to attain a supposed greater good, should themselves be willing to sacrifice something—their ambition, their love of notoriety, their temporal welfare—and remove as our fathers did from England. Have not the majority, as well as the other side, the right to enjoy undisturbed their convictions? When consciences are at war, when reconciliation is impossible, and universal toleration unknown, might will at last solve the difficulty, and the weaker party, yielding nothing when it could, must go to the wall.

Not having come to Connecticut to establish religious liberty —liberty as a principle—the early planters could not be expected to attempt anything in that direction. Nor should they be singled out for censure because their opinions and practice were not in advance of the communities from which they came. In this regard, it is enough that they did not fall below the wisest and best men of that age. When, however, their theory of government—a theory which their needs compelled them to

adopt, and which Mr. Hooker, in the sermon already referred to, distinctly announced—when, I say, their theory of government recognized the people as the rightful source of all political power, and the majority as the true exponent of the people's will, liberty in its better sense was made possible—made so inadvertently, as I judge. It is on the originality and supposed soundness of their theory that the constitution-makers must base their renown. In acknowledging the people as the fountain of all just authority, they committed themselves to a principle of which, seemingly, they did not know the full significance —one which might, and in the end did, lead to the overthrow of their cherished exclusiveness in religion. The latter they endeavored to perpetuate by "appropriate legislation," and for a long period they succeeded without important disaster; but at length the Revolution came; politicians learned their own power; the minority clamored for recognition; the caucus was instituted; the "people" proved unstable, the constitution-makers again assembled; and after a memorable career of one hundred and eighty years, the "standing order" succumbed.

Religious liberty in Connecticut, as elsewhere, grew out of dissent and the divisions of dissenters. When the latter class became numerous enough to encourage the hope of ousting those in authority, and were so divided among themselves that no sect could obtain power without the help of the others, liberty became vastly popular—became so because its advocacy was the indispensable condition of political success. It was not conceded as a right by those who governed, but wrung from them by political necessity and the force of numbers. I can think of no instance in which those adopting restrictive measures have volunteered a liberal policy at the request of a minority. It is possible, or at least credible, that either of the classes that united to overthrow the Congregational dynasty in 1818, and took control of the government, would have preferred the exclusive privileges which preceding rulers possessed to the universal toleration it was pledged to support—would have preferred it because of the opportunity which would be offered to establish, by union with the State, its own particular faith.

Political power, for most minds, has an irresistible charm. It controls the honors, the services, and the revenues of the people. All are struggling for it, and no one yields to another till forced to do so. The greatest patriot in the land, republican, democrat, national, or whatever he may call himself—holds on to it as with a death-grip. Not only the ambitious and mercenary desire it, but the philanthropist sees, or thinks he sees, a hundred ways in which he may use it for the benefit of humanity, and procure money without stint for his pet schemes. Men in power who represent diverse interests, and best know how damaging in many ways would be the continued ascendancy of any particular sect, party, order, or class; however good it may seem, will be least likely to abuse their opportunities. So long as the ruling majority is too much divided to allow of dangerous combinations, and a dissenting and opposing minority, numerous, vigilant, and courageous, is prompt to expose and denounce oppressive and wicked legislation, and stands ready, when called, to occupy the places of the oppressors—so long will liberty, religious and political, have a reasonable chance for preservation.

The framers of the Constitution in 1639 took good care that the Church should be given no power to be called its own. To its tender mercies when force might be used they would trust nothing. Their own sufferings in England had doubtless destroyed their confidence in its reasonableness or justice, when inflamed by zeal or provoked by opposition. So jealous were they of the influence of church-members, acting as such, that, rejecting the example and practice of Massachusetts, they refused to give them the smallest advantage in their political system. The nearest approach to partiality in this regard was made when they required the Governor to be a member of some approved or lawful congregation. In this way they hoped to curb ecclesiastical ambition, and keep church-officials within reach of the civil power. So long as the churches (at first they were not so united as to constitute *a church*) proceeded in accordance with the rules established and the views entertained by the General Court, no interference was attempt-

ed; but if they chose to wander in forbidden paths, either in doctrine or discipline, authority which none dared to dispute was interposed. A law in the collection of 1650 declared that the civil authority had power to preserve the peace and maintain the "ordinancies and rules of Christ in every church, and to deal with any church-member in the way of civil justice, notwithstanding any church relation, office, or interest, provided it be done in a civil and not ecclesiastical way," nor could "any church censure, degrade, or depose any man from any civil dignity, office, or authority;" nor could excommunication prevent him from making a will, or alienating his lands or estate. (Conn. Col. Rec., i, 510, 525.)

As I understand it, the General Court was the head of the church, or rather of the churches. It was more than pope, or pope and college of cardinals, for it exercised all authority, civil and ecclesiastical. In matters of discipline, faith, and practice, there was no appeal from its decisions. Except the right to be protected in their orthodoxy, the churches had no privileges which the Court did not confer and could not take away. When, at length, in obedience to a command of the General Assembly, their delegates met at Saybrook, in September, 1708, selected and approved a confession of faith, and assented to certain heads of agreement and regulations regarding church discipline, the Assembly was called on to ratify and legalize the proceeding. Thus the Saybrook Platform was established, and became the law of the land. It gave to the churches, individual and consociated, certain powers and privileges, as if by charter, and prescribed certain rules of proceeding, but did not authorize the use of other than moral means for correction. The extreme penalty was non-communion. Dr. Trumbull calls it the religious constitution of the Colony.

When the Saybrook Platform was adopted, State and Church in Connecticut were formally united; but there was no transfer of power from the civil to the ecclesiastical side, or none which could not at any time be recalled. This formal union, as defined in the Saybrook Platform, was continued till 1784,

when all laws not found in the revised Code of that date, including the "Act in Approbation of the Agreement at Saybrook," were repealed. Thenceforth the famous Platform had no binding force in law, but was generally adhered to as a satisfactory voluntary arrangement.

In the beginning, and till 1708, while the churches were voluntary organizations, committed by the Constitution of 1639 to the immediate care of the government, with no dependence on each other, nearly all the legislation relating to them was reserved for emergencies. It was advisory, admonitory, sometimes mandatory or prohibitory. The Assembly was bound to protect and preserve them as originally constituted, but seemed reluctant to use its undoubted authority. It acted the part of the armed and faithful but humane sentinel, watching, warning, forbearing, deprecating, but refusing to fire till the danger was imminent and necessity imperative. In case, however, good advice was unheeded, and a wayward, rebellious spirit manifest, it was peremptory, issuing its decrees, and enforcing obedience by summary processes.

Though the churches were helpless as to any distinct authority of their own, they exerted a powerful influence. As the government was instituted for their special benefit, they could rightfully claim a large share of its attention.

The elders or ministers, though not accustomed to hold political office, had much to do with public affairs, and were formally consulted on important occasions. By their influence, says Hutchinson, the best, if not "the greatest of the historians of Massachusetts," magistrates were elected or displaced. In the devising and perfecting of laws relating to religion, morality, and the safety of the churches, they seem to have taken the lead. At the call of duty, themselves being judges, they did not hesitate "to preach politics," to hold up the law and point out the right, giving chapter and verse. They did this on the Sabbath, on the weekly lecture-days, on thanksgiving-days, and especially on fast-days—a custom not yet forgotten. In their annual election-sermons (one was ordered printed as early as 1674), they remembered the purpose of their appoint-

ment, and lectured the law-makers on their political as well as religious duties, speaking as with authority. As if this were not enough, the Court, in May, 1708, "recommended [when addressing the clergy it did not often *command*] that the ministers in their respective plantations preach annually to the freemen, on the day of election, a sermon for direction in the choice of civil rulers," etc. Many years before, the great spiritual leader of Massachusetts, John Cotton, had said "that the rulers of the people should consult with the ministers of the churches upon occasion of any war to be undertaken, and any other weighty business, though the case should seem ever so clear, as David in the case of Ziglag," etc. (Savage's Winthrop, i, 283.) The divine blessing, it was contended, could not be expected were their advice neglected. If they had not more influence at the court of heaven than other men, they were more familiar with the Bible, as a general rule more intelligent, sagacious, and often wiser than those who sought their assistance and direction. Some of them were men of rare intellectual gifts, eloquent as preachers, skilled in disputation, and proficients in all the learning of the time. Several were also distinguished as surgeons and physicians. The Rev. Gershom Bulkley, of Wethersfield, received the "hearty thanks" of the council, and thirty pounds for his eminent service as surgeon in the war with King Philip, in 1675. (Conn. Col. Rec., ii, 483.) The Rev. Jared Eliot, of Killingworth, at a later day, was the most noted physician in the Colony.

The ministers perpetuated and extended their influence by becoming the instructors of the youth. They fitted boys for college, were their tutors after admission, and superintended or supervised the whole business of education.

Writing of their position in the social and political system, Dr. Trumbull remarks:

"The most perfect harmony subsisted between the legislature and the clergy. Like Moses and Aaron, they walked together in the most endeared friendship. The governors, magistrates, and leading men were their spiritual children, and esteemed and venerated them as their

fathers in Christ. As they had loved and followed them into the wilderness, they zealously supported their influence. The elergy had the highest veneration for them, and spared no pains to maintain their authority and government. Thus they grew in each other's esteem and brotherly affection, and mutually supported and increased each other's influence and usefulness."

In another place the Doctor says: "In no government have the clergy had more influence, or been treated with more generosity and respect by the civil rulers and people in general, than in Connecticut." (Hist. Conn., i, 301.) Here is an illustration of the distinguished consideration with which they were treated on occasions not uncommon: Early in 1657 there was appointed a general council or synod, to be held in Boston, in which the churches of Connecticut were to be represented. That the ministers might be sure of treatment suited to their dignity and mission, the General Court "ordered that the deputies, with the deacons of the church in each town, take care that their said elders be comely and honorably attended and suited with necessaries in their journey to the Bay and home again; and that the same, with their proportion of charge in the Bay, during their abode there upon this service, be discharged by the [Colony] treasurer; and also the deputies are empowered to press horses* (if need be) for the end aforesaid."

At an early period the ministers of the Colony held their annual meetings in Hartford at the time of the general election. On these occasions "a genteel entertainment" was given

* The power to press men and to seize horses, oxen, boats, and other property for the public convenience, was given on slight occasion, and apparently without much regard for private rights. Soldiers were raised by impressment. In 1669 a *town-meeting* of New Haven, when building a meeting-house, gave "liberty to press such men as is necessary for that end." (Bacon's Hist. Discourses, p. 178.) To provide against the panic which the small pox, then a terrible scourge, excited, the Assembly, in May, 1711, authorized any two justices of the peace to issue warrants to impress nurses, and to take, forcibly, lodging-houses or any thing needed for the sick. If any person did not heed the summons, he incurred a penalty not exceeding five pounds. By a later law (1728), the offender was to be committed to the common jail till he (or she) "will better conform, or the occasion of the impressing be over."

to them and the elders from the neighboring colonies who were present, at the public expense. This custom, said Dr. Trumbull in 1797, "has been continued to the present time" (i, 505). If a minister were not paid his salary promptly, the treasurer of the Colony was required, at the request of the injured party, to levy and by his warrant collect the tax, and pay the amount due (Conn. Col. Rec., v, 50). The clergy were also exempt from taxation in the towns in which they lived, though often rich.

Did the early ministers of Connecticut, venerated, trusted, and caressed, never abuse their unparalleled opportunities? Did they never use their great influence for ambitious, selfish, or other unhallowed purposes? That they, more than others, were responsible for the ecclesiastical legislation of the Colony, and particularly for the acts designed to enforce conformity, cannot be denied. If these laws were milder, more enlightened than those of Massachusetts, of the colonies further south, and of England, let them have credit for that. No doubt they were generally conscientious, but this fact did not wipe out the wrong done, nor make more acceptable the penalties exacted. I believe that Dr. Trumbull's statement that "they were men of the strictest morals," is quite true. Certain I am that the scandalous charges of which we have heard much in our day were not made against them.

In the beginning the churches appear to have been maintained by voluntary contributions, but this method doubtless proved to be unequal and insufficient. That a better might be provided, the Commissioners of the "United Colonies of New England," representing Massachusetts, Plymouth, Connecticut, and New Haven, which first met in Boston in September, 1643, took the matter in hand. They proposed a law to the several colonies, which was adopted by Connecticut in October, 1644. (See Hazard, ii, 17.) The preamble of the Act as printed in the Code of 1650, reads thus: "And whereas, amongst many other precious mercies, the ordinances have been and are dispensed with much purity and power," this Court, "for the encouragement of the ministers who labor therein, do order that those

who are taught in the word, in the several plantations, be called together, that every man voluntarily set down what he is willing to allow to that end and use: And if any man refuse to pay a meet proportion, that then he be rated by authority in some just and equal way; and if after this any man withhold or delay due payment, the civil power to be exercised as in other just debts."

By another law embraced in the same Code, entitled "Rates," it was "ordered that every inhabitant shall henceforth contribute to all charges, both in church and commonwealth, whereof he doth or may receive benefit, proportionably to his ability," etc., he having, as before, the option of doing it voluntarily or by compulsion. "And the lands and estates of all men, whereever they dwell, shall be rated for all town charges, both civil and ecclesiastical, where the lands and estates shall lye, and their persons where they dwell." Every male person of sixteen years of age and upwards (except magistrates, elders of churches, and those disabled by sickness, lameness, etc.) was "to be assessed and rated at two shillings sixpence by the head, and all estates, both real and personal, at one penny for every twenty shillings." In the lists, cattle, including horses, sheep, goats, and swine, were to be entered at specified rates, and all other personal and real estate at "a true estimation." The rates were payable in the several varieties of corn, wheat, pease, rye, Indian corn, and sometimes in wampum, all at prices fixed by the General Court. If any person neglected to pay, his goods were distrained, and if need be, his body imprisoned. If the town constables, who collected the Colony taxes, were negligent, *their* goods were distrained, and if payment was not then forthcoming, the public treasurer was authorized to collect "all arrearages of levies" from any man or men of the delinquent town by the same process, he or they thus despoiled having a rightful claim on the town for the amount taken, with damages.

By a later law (Revision of 1702) assistants (magistrates), justices of the peace, ministers of the gospel, allowed physicians, and school-masters were exempted from the poll tax.

By another, passed in October, 1706, the estates of all the settled ministers of the Colony, lying in the towns in which they dwelt, and the polls of their families were similarly exempted. This last act, making no distinction between the standing order and dissenters, continued in force till the political revolution of 1818; but it is worthy of remembrance that at the time of its enactment all the settled ministers in Connecticut were Congregationalists. I am mistaken—Mr. Valentine Wightman, in 1705, became the pastor of a Baptist Church in Groton, the first in this Colony, gathered in violation of law. He was much persecuted. (Sprague's Annals, vi, 27.)

In October, 1651, lists of the estates of the six towns in the Colony (Hartford, Windsor, Wethersfield, Farmington, Fairfield, and Stratford) were, for the first time, presented to the Court. They amounted to £75,492–10–6. At the same time the treasurer was directed to issue warrants for the collection of a tax equal to "a whole rate" (or one penny in the pound, as I suppose), persons or polls to be rated at eighteen pence instead of two and sixpence, as required by the previous law. Afterward (October, 1657), polls were put in the lists at the fixed sum of eighteen pounds each, as I gather from the figures; so that each person of sixteen years and over paid as much on his head as the owner of eighteen pounds estate.

Our fathers did not make laws till they were wanted for use; did not enact penalties till there was neglected duty to be enforced or crime punished. During the first few years all probably went to meeting. Had any been disinclined they would not have followed their ministers, at so much cost, through the wilderness. But in 1650, when loose practices had crept in, a legislative act and a forfeit were required as incentives. No doubt the faithful preacher would spend his breath without result if there were not ears to hear; so in the code room was found an order which reads thus: "Wheresoever the ministry of the word is established according to the order of the gospel throughout this jurisdiction, every person shall duly resort and attend thereunto upon the Lord's day, and upon such public fast days and days of thanksgiving as are to be generally kept

by authority," or pay a fine of five shillings for each neglect. The act assumed, as the much harsher law of England did, that it was the duty of every person to attend divine service, and the proper business of the government to enforce whatever duty enjoined.

Two other acts, passed in March, 1658, should be noticed in this connection. The first required "that henceforth no persons in this jurisdiction shall in any way embody themselves into church estate without consent of the General Court, and approbation of neighbor churches." The second declared as follows: "There shall be no ministry or church administration entertained or attended by the inhabitants of any plantation in this Colony, distinct and separate from and in opposition to that which is openly and publicly observed and dispensed by the settled and approved minister of the place, except it be by approbation of the General Court and neighbor churches," provided private meetings of godly persons for religious purposes be not hindered, etc.

The acts of March, 1658, seem to have had a special reference to the controversy then raging, and the division threatened, in the church of Hartford. They had the effect intended, and for the time prevented the proposed disruption.

These four or five laws constitute the famous ecclesiastical laws of Connecticut, so much criticised and denounced. They commanded several things: 1, The churches must be supported like the State by a general tax levied on the polls and estates of the whole people; 2, All must go to meeting, or attend the stated religious exercises, under a penalty; 3, No persons must "embody themselves in church estate," or set up a church, without the consent of the General Court and the neighboring churches; 4, No ministry or church administration must be allowed in opposition to the lawful and approved minister of the place, except with the consent of the Court and the neighboring churches. They were enacted by Congregationalists for the benefit of themselves, and the support of the established faith; were designed to preserve "the purity of the gospel," and "the discipline of the churches" as then

understood; were submitted to by all as the most effectual means known to secure peace, order, harmony, and the peculiar privileges which a buffeted people hoped to enjoy and perpetuate. They were severely restrictive and coercive, but, unlike the acts of Parliament, were not apparently intended for men whose conscientious scruples might be violated. There was then no class whose religious belief was in conflict with that of the dominant party—none therefore to make unequal the operation of the laws. The people who enacted them were, for a long period, almost the only sufferers, though their faith had not changed. Apart from the brief Quaker alarm (and the acts recited were not prompted by that), there is no evidence that unfriendly sects were expected in the Colony, or that the legislation complained of had any reference to their possible coming. When the disturbers did appear, half a century later, existing enactments designed to secure peace, unity, and prosperity within were found sufficient for external defense, and the preservation of the ruling order. For a season they were relied on to prevent or repel sectarian invasion, but erelong, when outside pressure threatened mischief, their rigor by degrees was relaxed—relaxed for the benefit wholly of other and hostile denominations, without affording the smallest relief or advantage to the dissentients or disorganizers inside, for whose discipline, reformation, or suppression they were originally intended.

Many years afterward other restrictive laws were enacted, usually on emergent occasions and for a temporary purpose. Like the ecclesiastical laws already noticed they were intended not to embarrass dissenters without, but to control irregularities and dissensions within the churches. Though anticipating somewhat the current of events, convenience and logical method induce me to consider them here.

The irregularities referred to occurred in connection with the Great Awakening so-called, which appeared in 1740 and 1741. It swept over the Colony like a whirlwind, "extending to old and young, to gray headed sinners, and even to little children." (Trumbull, ii, 143.) Of course it was attended

by extravagances, confusion, and error. The clergy and the people took sides, the young, more impulsive and enthusiastic, urging it on, the older, more considerate and suspicious, shaking their heads and holding back. The former were called New Lights, the latter Old Lights. As both sides agreed, the devil was very busy, working fiercely for the *other* side. The consequences were animosities, passionate and bitter strife, and the division of churches. The General Assembly, backed by men of greatest influence and the college, was as usual cautious and conservative, the magistrates taking the lead. For a season it looked on and forbore, but at length, to prevent fanatical preachers, irritated by lay exhorters, from roving about the Colony, neglecting their own duties, and interfering with those of others, on the plea that the settled ministers were asleep or scandalously unfaithful, it enacted, in May, 1742, that any minister who left his own congregation to preach to another, without the "express invitation" of the minister and church of the latter, should be denied the benefit of any law for the support of the ministry—that is, of any law enforcing the payment of his salary. It inflicted the same penalty on all the attending members of any Association (of ministers) which should invade the rights of any other Association in granting licenses to preach, etc. If any person, "not a settled and ordained minister," presumed to preach or exhort publicly where not invited, he was required for each offense to give a bond for "one hundred pounds lawful money" (specie) "not again to offend." If a foreigner or stranger, whatever his ecclesiastical character or relations, did the same thing, he was to be sent away as a vagrant—conveyed by warrant in charge of the constables, from town to town, out of the Colony. The Rev. Samuel Finley, afterward President of the College of New Jersey, who received a call from an association of Separates, so termed, in Milford, was served in this way. After the indignity, with the spirit of a martyr, he returned and preached in New Haven. He was again arrested and treated as before. To meet cases of this kind an act was passed, in October, 1743, requiring that any one who returned, after hav-

ing been forcibly removed, should be apprehended, and, if found guilty, "bound in the penal sum of one hundred pounds, lawful money, to his good and peaceable behavior till the next county court," while the County Court was authorized to further bind him during its pleasure.

In New London, a company of Separates or New Lights, established an academy, or institution called the "Shepherd's Tent," in charge of Rev. Timothy Allen, previously the minister of West Haven. It was designed to qualify young men as exhorters, teachers, and ministers. (Caulkins' New London, 453.) Fearing it might "train up youth in ill principles and practices," the General Assembly, in October, 1742, forbade the setting up or maintaining any school not already provided for by law, and imposing a penalty of five pounds per month on the school-master. The scholars and those harboring or boarding them were to be proceeded against "according to the laws respecting transient persons." A transient person was then treated as a vagrant, who might become a pauper. He was not allowed to abide in any town without the permission of the town authorities. If he did so after having been warned to depart, he was doomed to pay twenty (afterward ten) shillings per week. If he could not pay, and did not leave in ten days after sentence, he (or she) was to be whipped on the naked body not exceeding ten stripes. If he came back after having been forcibly sent away, he (or she) was to be whipped ten stripes for returning, the operation to be repeated "as often as there shall be occasion." This was the "tramp law" of that day.

It is probable that the "Shepherd" felt constrained to hang up his crook and let loose his flock, perhaps abruptly, when the news of the new law reached the "Tent."

Many of the New Lights, complaining of the apathy, or "deadness," of the established churches and their ministers, seceded from them and set up new ones, organizing under the law of 1708 made for "the ease of such as soberly dissent." They thus secured the privilege of having worship and a minister of their own, but were not excused from taxation for the

support of the churches they had left. The second society of Milford was formed in this way. The old society, the town, the county association, and General Assembly, all frowned on them, and opposed their plans; so "they put themselves under the presbytery of New Brunswick," hoping doubtless to escape what is now called "home rule." For about twelve years, till May, 1750, in addition to their own heavy burdens, they were compelled to pay the usual taxes for the benefit of the first society. (Trumbull, ii, 338.) The same hard fate awaited those who seceded from the old society of New Haven, over which the Rev. Joseph Noyes, a conservative of very decided views, was settled. Dr. Bacon in his "Historical Discourses," and Dr. Dutton, in his "History of the North Church," give interesting accounts of the separation, and the events connected with it. All this was done long after dissenting Churchmen, Quakers, and Baptists had been, successively, released from the liability to support or give encouragement to any societies but their own.

To put an end, as far as possible, to further division of the churches and congregations by innovators proposing dissent, the Assembly, in May, 1743, repealed the law of 1708, which law had been construed to authorize and legalize their proceedings. At the same time it enacted that sober dissenters, being Protestants, "and such persons as having any distinguishing character by which they may be known from the Presbyterians and Congregationalists, and from the consociated churches established by the laws of this colony, may expect the indulgence of this Assembly," after having qualified themselves according to law. As I understand it, this curious and absurd act promised indulgence to Protestant dissenters who might formally apply, with full permission to worship in their own way, provided their faith, forms, and practice differed essentially from the Congregational—provided, in other words, their religion was of the kind which the Assembly had always discouraged and opposed. Members of the established churches must renounce their orthodoxy and embrace other opinions, before they could hopefully petition for the privileges of the Act of 1743.

In October, 1749, the Assembly directed that the law of 1708 "for the ease of such as soberly dissent" should be printed with the revised laws of 1750. Thus was that reasonable act revived. None of the enactments designed to suppress the errors and follies of the New Lights, and to punish the authors, were continued in the revision. The excitement had run its appointed course, and there was no longer a pretense for extraordinary laws. They were shamefully severe, but of a kind not uncommon at that day. After all, it is difficult to say whether the disease or the remedy prescribed for it was the worse.

The fair-minded, conscientious Dr. Trumbull denounces these laws in good set terms. They were "an outrage to every principle of justice, and to the most valuable rights of the subject—a palpable contradiction and gross violation of the Connecticut bill of rights." They "dishonored the servant of God, stained his good name, and deprived him of all the temporal emoluments of his profession, without judge or jury, without hearing him, or knowing what evil he had done." They were the result of "a concerted plan of the Old Lights, or Arminians, both among the clergy and civilians, to suppress, as far as possible, all the zealous and Calvinistic preachers; to confine them entirely to their own pulpits; and at the same time to put all the public odium and reproach possible upon them, as wicked and disorderly men, unfit to enjoy the common rights of citizens."

These laws were bad enough, certainly, but no worse than others which the doctor does not condemn with half the fervency. It was wrong, grossly so, to deprive the minister of that which was his due, but it was not less so to compel men to hear him preach, and to pay for a service which they did not desire, and to which they were conscientiously opposed.

Dr. Trumbull published the second volume of his History of Connecticut when he was eighty-two years of age, say in 1818. More than four-ninths of it (he says "about a third") are devoted to ecclesiastical history, the most difficult of all to write. The author's sympathies and prejudices did not often get the

better of his judgment, but evidently the events he describes occurred too near his own time, as he himself suggests. He seems to have taken a professional and personal interest in them. His feelings became enlisted, as shown by the liberal way in which he mingles preaching with history. Having made up his mind who, in the main, was right, he buckled on his armor, and thenceforth had a cause to maintain and a side to defend. No one can write history faithfully and well, who, at the outset, has somebody, some sect, or party, or policy, to vindicate—or if he can, he conscientiously won't. A weakness common to us all will not permit it. The persons whom Dr. Trumbull censures were not bad men, but quite the contrary. As a class they were eminent for wisdom, virtue, and religion. They were misguided, it is true, as good men frequently are. Not as well as we do did they know how to deal with excitement in its epidemic form. Their opponents were disorderly, often provokingly so. No doubt both sides were sincere, as men heated by religious zeal usually are. Sincerity does not always exclude unsanctified passion.

For many years after the settlement of Connecticut, internal peace and harmony prevailed in church and commonwealth. The people were contented with their government, religion, liberty, and the guarantees provided for each. Generally they were church-members, men of rigid morals, intrepid and courageous, who left comfortable homes for a wilderness because willing to make sacrifices and endure hardships for their convictions. But soon it was observed that an important change was going on. As usual in new settlements, death was very busy. Some returned to England to fight the battles of Parliament against the King. There were a few new arrivals, and a new generation, faster than the old, was coming on the stage. The additions and substitutions, on the whole, lowered the standards of morality and religion. Sadly it was observed that the proportion of church-members was diminishing. Young parents neglected to have their children baptized. The congregation, in some cases, claimed the right to choose the pastor, and to

share with the church other privileges which had previously been denied. Great plainness gave place to comparative luxury and ostentatious display. Young women, and perhaps their mothers, studied the fashions and dressed more than their quality or means justified. Too often the young men, after having defied the school-master, got wild and ungovernable, sowing the undomesticated oat when they should have been thinking of the solemn realities of matrimony and the life beyond. Some of the more fiery rode furiously through the towns, "endangering the lives of themselves and others," so that, at a later period, the court imposed a fine of five shillings for riding (no *driving* then) faster than "an ordinary and easy hand gallop." (Conn. Col. Rec., ii, 110.) Others (a little older probably), tiring of civilization, took up their abode with the Indians, leading "a profane course of life," for which heathenish practice the Assembly, October, 1642, ordered that the offenders should "suffer three years' imprisonment at least," and submit to whatever fine or corporal punishment the particular Court might impose. The youth of both sexes thought their fathers austere, their religion too self-denying and laborious. They probably considered a Sunday service too long which lasted "full three hours" —the time allowed by the Assembly to Mr. Walker, of Stratford. (Conn. Col. Rec., ii, 111.) In connection with these evidences of loose thinking and practice, idleness, vagabondism, licentiousness, Sabbath-breaking, tavern-haunting, drunkenness, tobacco-taking, profanity, "casting out pernicious speeches" against the Commonwealth, reviling of ministers and magistrates, contemptuous behavior towards the word preached, lying, extortion, defrauding of creditors, card-playing, gaming, and other vices and immoralities, against each of which there was a stringent law, became common. As early as 1640, so numerous were offenders, and so "stubborn and refractory" were they when held for trial and punishment, that a house of correction or prison, twenty-four feet by sixteen or eighteen, with a cellar, was ordered and soon tenanted. It is presumed to have been erected in Hartford. In May, 1664, "an addition to the prison-house" became necessary. Three years later others were

wanted, and the three destitute counties, New Haven, New London, and Fairfield, were ordered each to provide one. I do not find that the prisons were ever occupied, more than now, by those charged with "profuse and extravagant spending" of the public money, as the record hath it. (ii, 242.)

In the early period of which I have been speaking, appearances indicate that the law-makers, courts, constables, and selectmen all had their hands full, their fussy activity, as now, leaving but feeble traces of a reformatory influence. Human nature and its infirmities were the same two hundred and thirty or forty years ago as in our time, nor can we expect a change so long as the controlling law of heredity is ignored or despised. Did I know when a wiser and better use would be made of that familiar law, I could tell when (without a miracle) the millennium would begin. As the case now stands, the civilized human animal is the one which derives least benefit from it. Largely we expend our energies to secure the survival and perpetuity, not of the fittest, but of the basest.

With sorrow it must be said that intemperance existed early in Connecticut. Of English parentage, it came, doubtless, with the immigrants, took root, and found a congenial soil. Historians forget to mention it. At the outset, the farmers planted their apple orchards. For present use they made home-brewed or "household beer." So soon as a little trade sprang up, they obtained (at first probably by the way of Boston) rum from the West Indies, wine from Madeira and Fayal, and strong beer from England. As a part of their military outfit, the little band of Pequot warriors, in 1637, was provided with "one hogshead of good beer for the captain and Mr. [minister] and sick men, three or four gallons of strong water, two gallons of sack." To meet a growing demand, tippling houses and dram shops were opened. In these places young men gathered, drinking deep and staying late. As now, doubtless, drunkards reeled through the streets, or fell by the wayside. As early as August, 1639, five men were censured and fined from ten to thirty shillings each, for "unseasonable and immoderate drinking." To correct a great abuse, the license system was adopted

in February, 1644. To still further limit the evil, the Court ordered, May, 1647, that no person should remain in any victualing house, drinking wine, beer, or hot water, longer than half an hour; nor might any one draw more than one pint of sack for three persons, or deliver wine to be taken away without an order from the master of a family. Except in cases of necessity, and in small quantities, inn-keepers were forbidden to sell hot water; and as bell-punches had not then been invented, they were required to give an account of their doings on demand. For any delinquency they received the censure of the Court. This law was made more severe in 1650, and fines attached to disobedience. Getting drunk after that cost the offender ten shillings; excessive drinking, three shillings and fourpence; tippling more than half an hour, two and sixpence; tippling after nine o'clock at night, five shillings. If payment were not forthcoming the guilty party was sent to prison, "or set in the stocks one hour or more, in some open place, as the weather will permit." For the second offense the fine was doubled, for the third trebled. If the forfeit could not be paid, the man found drunk was whipped ten stripes, and the hard drinker kept in the stocks for three hours, weather permitting. If reformation did not follow, imprisonment did, till a sufficient bond was furnished for good behavior. (Conn. Col. Rec., i, 533–4.)

In October, 1654, the orchards had come into bearing, and cider was produced cheaply and abundantly. The thirsty farmers made it a common drink. In the mean time "the great and crying sin of drunkenness" had extended to the Indians. In an important sense, the whites were the authors of their misery. They sold them cider and strong beer, so the Court imposed a fine on the seller of five pounds for every pint of any kind of intoxicating drink, except ordinary household beer, sold or given to the Indians, one-third to go to the informer. So much of the prohibition as related to cider was repealed in March, 1659, and reënacted in October, 1660. At about the same time an import duty of twenty shillings a butt was imposed on wine, and of five shillings an anchor (about

ten gallons) on liquors. An order was also passed that no corn or malt should be distilled, the fact indicating that corn-whiskey of domestic manufacture had been or was about to be added to the list of intoxicating drinks.

To restrain the greed of venders the Assembly ordered, in October, 1674, that no inn-holder or ale-house keeper should sell cider at more than fourpence a quart, or liquors at over fourpence a gill, but there was no penalty. In May, 1699, vintners, ordinary keepers, and retailers were forbidden to take above eight pence in money for a pint of Madeira wine, six-pence a pint for Fayal wine, twopence a gill for rum, and two-pence a quart for cider or strong beer. The forfeit was ten shillings, one-half to go to the informer. Were a law which aimed to secure cheap "drinks" proposed now, we should think it the work of demagogues baiting their murderous hooks for rabble votes.

To the besetting sin of intemperance, our fathers, as I have shown, gave much anxious thought. Like their successors, they regarded it as a frightful evil, a dangerous and degrading vice, and wrestled with it perseveringly. But they did not practice total abstinence, or believe in universal prohibition as a duty. Honestly, no doubt, they thought stimulating drinks a blessing, a solace and relief when properly used, and a curse only when abused. With this conviction they endeavored persistently to separate the good from the evil, the beneficial from the pernicious, and to facilitate the work adopted the license system. Limitations, restrictions, and severe penalties were imposed, but the laws were violated, and the system as it then stood lost credit. In May, 1695, the General Assembly, finding "that excessive drinking was increasing, and that the multiplying of licensed houses is the occasion of disorders," called in all licenses except those held by inn-keepers, and turned over the business to the towns and county courts, they to require a bond from those receiving licenses of ten pounds each, the same to be forfeited if they did not "keep good order according to law."

Chapter IV.

In July, 1647, died the Rev. Thomas Hooker, "the father and pillar of the American churches"—"than whom no more illustrious mind came from the mother country to New England." (Centennial Papers, p. 157.) During his lifetime, owing perhaps to his personal influence and commanding abilities, there was nothing to disturb the concord and mutual confidence which prevailed in the meeting-houses and among the faithful. But erelong the peace was rudely broken, and bitter strife took its place. It began in the church at Hartford, one of the most enlightened and exemplary in New England, then in charge of Rev. Samuel Stone. Elder Goodwin complained that a "member had been admitted, or baptism administered" in a way "inconsistent with the rights of the brotherhood, and the strict principles of the Congregational churches." Dr. Trumbull, a man of charity, thinks he may have imagined himself not properly consulted (i, 311). The controversy inflamed and divided the church, and soon spread to the neighboring churches. The whole people were maddened by the conflict, as if their religious institutions were in instant peril. Prejudice, passion, the pride of opinion, and the desire to vanquish, as usual, mingled in the strife, and hindered reconciliation. In 1654 and 1655, or about that time, several councils of the neighboring elders and churches were called, without effect. In this emergency, certain elders of the Bay volunteered assistance, and at a later date they or others came to Hartford, but accomplished nothing. "The parties became more alienated and embittered than before." Governor Webster, Mr. Whiting, Captain Cullick, Mr. Steele, Andrew Bacon, and other influential gentlemen of Hartford took the side of Mr. Goodwin. The latter and his aggrieved associates esteeming themselves the defenders of true Congregationalism, as they were refused dismission, withdrew from the church. Mr. Stone is said to have had Presbyterian proclivities.

All along, the Assembly had viewed the controversy with intense interest, and on several occasions, in a sorrowful spirit, had suggested measures which, it was hoped, would lead to a settlement. But when the "withdrawers" proposed to unite with the Wethersfield church, the Court set up its authority, and forbade further proceedings in that direction. It also ordered a cessation of hostilities, understood to be of a disciplinary character, on the part of the Hartford church, "till the matters in dispute could be brought to an issue in the way the Court might determine." This was in March, 1658. As if a permanent separation and a second church were apprehended, certain acts already referred to (*ante*, p. 354) were passed, forbidding the setting up or entertaining and attending any church or church administration without the approbation of the General Court and neighboring churches.

At the next session, a few days later, Mr. Stone and the church on one side, and the opposition on the other, were desired to meet in private conference, in company with the Governor and Deputy Governor (Winthrop and Wells), and endeavor to adjust their unhappy differences. If they could not agree, letters were to be sent to the elders at the Bay and others, asking their advice as to "what the Court should do in the premises." At about the same time, Mr. Stone presented a petition with a request that certain questions, which were named, might "be reasoned syllogistically before the honored Court," he and the dissatisfied brethren to argue "face to face." He affirmed that the malcontents were still members of his church; that their "sin was exceeding scandalous and dreadful," and that the controversy was "not in the hands of the churches to be determined by them;" meaning, I suppose, that his church would not willingly submit to outside interference. (Conn. Col. Rec., i, 317.)

Though foiled, hitherto, in every attempt to secure peace, the General Court was not discouraged, nor seemingly annoyed that its advice was unheeded. It was probably too much grieved to be provoked by the refractory spirit exhibited. Preferring persuasion to authority, but using whichever prom-

ised most, it went on with its endeavors. In August, 1658, a vote was passed requiring "each party to choose three elders, as able and indifferent as the times will afford, before whom (the questions having been beforehand plainly stated) the case shall be publicly disputed, to the issuing of the controversy according to God." The elders were to give what light they could, and both parties to submit to their decision. If either refused to choose, the Court was to act for it. The withdrawers named Mr. Davenport, Mr. Norton, and Mr. Fitch. The church refusing to choose, the Court named Mr. Cobbet, Mr. Mitchell, and Mr. Danforth. The council was to meet in Hartford on the seventeenth of September following. At the same session, the eighth of September was appointed as a day of "humiliation to implore the favor of God" on account "of the intemperate season, thin harvest, sore visitation by sickness in several plantations,* and the sad, prolonged differences that yet remain unreconciled in the churches and plantations; and that God would succeed the means appointed for the healing of the aforesaid differences."

This council, says Dr. Trumbull, never convened, owing apparently to the contumacy of the parties interested; so the baffled Court, after further fruitless endeavors to secure acquiescence in its plans, concluded, in March, 1659, to act independently. Without heeding opposition, it proceeded to call a council in its own name, asking the churches to send "their ablest instruments." The questions at issue were to be publicly disputed, while those opposed to the movement could be represented or not, as they chose. In either event, the parties were, as on previous and subsequent occasions, to share the expense between them.

Elders and messengers from several of the more prominent churches of Connecticut, Massachusetts, and New Haven, assem-

*During the summer of 1658 much sickness prevailed. Governor Winthrop and his wife were "very ill" in Hartford. In New Haven, where the disease was of an intermittent character, Mrs. Davenport was among the afflicted. The distemper also raged in Norwalk, Fairfield, Mashpeag, among the Dutch in Manhadoes, and on Long Island, where the Indians suffered greatly. (See Bacon's Hist. Discourses, 373–5.)

bled in Hartford in June. They "were abundant in their labors," and successful, not in healing the breach, but in softening prejudices, soothing excited feelings, and bringing friends long estranged nearer together than they had been for years. The Assembly was so much pleased with the result that, at its session in June, another meeting of the council was requested in August (1659), "to whose decisive power" the withdrawers were required to submit, the church "freely engaging" to do so. In the way of preparation, a day of "solemn humiliation, partly for England [Richard Cromwell had abdicated], partly for our own selves, partly for the season," and in part for "the council, that God would bless their labors," was appointed. That reverend body met in due season, and was again, to a certain extent, successful; but in the mean time Governor Webster and fifty-nine others, weary of the quarrel, had signed an agreement, dated April 18, 1659, binding themselves "to remove into the jurisdiction of Massachusetts." About two-thirds or more of the number, including Webster and Goodwin, and a dissatisfied company from Wethersfield, did finally (in 1659, says Chapin) remove, settling Hadley in Massachusetts (see Hinman's First Puritan Settlers, pp. 92, 158); but a separation, owing to the improved temper of the combatants, and perhaps to the apprehended effects of the removals on the temporal welfare of the church, was for the time prevented. Full of gratitude for the success of the council and for other blessings, the Court at its session in November, designated the last day of the month (Wednesday) as a day of public thanksgiving.

The controversy in the Hartford church was continued under Whiting and Haynes, the successors of Mr. Stone, Whiting sympathizing with the rigid Webster, Goodwin, and others; Haynes and a majority of the church with the more liberal views of the innovating Stone. The final result was the division of the church in October, 1669, Mr. Whiting, on petition, being allowed by the Court "to walk distinct," and "practice in the Congregational way without disturbance." Four out of nine assistants, and fourteen out of thirty-three deputies (if all were

present), voted against this act of indulgence. (Conn. Col. Rec., ii, 120.) An act had previously (May, 1669) given liberty to all persons "approved according to law as orthodox and sound in the fundamentals of the Christian religion to have allowance of their persuasion and profession in church ways or assemblies without disturbance." (Conn. Col. Rec., ii, 109.) This act, designed apparently to prepare the way for divisions of the churches of Hartford and Windsor (which were formally authorized at the October session), seems to have been misunderstood by Mr. Hollister in his History. He regards it as a general act of toleration, giving dissatisfied persons liberty to dissent "from the Congregational or established religion," provided "they should conduct themselves peaceably, and should be Christians." They (the colonists), he continues, "were willing to tolerate peaceable Christians, and passed an act to embrace them all." Under this law, he repeats, "all denominations were allowed to worship God in their own way, provided they did not commit a breach of the peace." (Hist. Conn., ii, 528–9.) The facts are widely different.

The Hartford controversy, if measured by its duration and the wide-spread commotion it occasioned, or by the perverseness, embittered feeling, and eminent respectability of those who took part in it, was the most memorable of its time. It introduced contention and disorder into all the churches, and entered into the affairs of the towns and of the whole people. Nobody, not even the renowned Cotton Mather, or those who were living at the time, have told us exactly what it was about, or how it began, except that in some way it related to "the qualifications for baptism and church-membership, and the rights of the brotherhood." (Trumbull, i, 322.) According to the imaginative, often quoted Mather, "from the fire of the altar there issued thunderings, and lightnings, and earthquakes throughout the Colony." It is not necessary to call in question the honesty of either side in the controversy. Zeal, as all admit, was superfluously abundant. (For interesting papers relating to the Hartford Controversy, edited by Mr. Trumbull, see Coll. Conn. Hist. Society, vol. ii.)

The church at Wethersfield took a deep interest in the Hartford dispute. Only four miles away, it could not well hold itself aloof. It became "divided and contentious." John Hollister and others made complaint to the General Court in March, 1658, that their minister, Mr. Russell, had brought great scandal on the church, and that they were "affraid to venture their souls under his ministry." They asked liberty to procure another minister. The Court thought Mr. Russell censurable, but not as bad as represented. It therefore denied the request, and advised the hostile parties to "walk lovingly together," which they were careful not to do. In March following, Lt. Hollister had been excommunicated without receiving a copy of the charges against him. After reproving Mr. Russell for disregarding the practices of the churches, the Court ordered a committee "to desire, and if need be, require of him and his church the particular charges or offenses for which Mr. Hollister was censured." In March, 1661, when "a large majority of the members of the church had removed to Hadley" (see Chapin's Glastenbury, p. 36), certain persons claimed that the church had become extinct, but the General Court settled this matter by declaring "that the said church is the true and undoubted church of Wethersfield, and so to be accounted and esteemed."

The people of Middletown were dissatisfied with Mr. Samuel Stow, their minister. The Court, discovering "the unsuitableness of their spirits," in October, 1660, gave them "free liberty to provide for themselves another able, orthodox, and pious minister, as soon as they could, he to be approved by Mr. Warham, Mr. Stone, and Mr. Whiting, taking in the help of the worshipful Governor (Winthrop), and Mr. Willis." When this had been done, Mr. Stow was directed "to lay down his preaching there;" but till a substitute was obtained, the town was ordered to pay his salary, he continuing his ministry. In March following, Mr. Stow's people were declared to be "free from him as their engaged minister," but they were ordered to give him "letters testimonial," and forty pounds for his labor the year previous. Meanwhile he had liberty to preach to those who would hear him till another minister was obtained.

Having reached an advanced age, Mr. Warham, of Windsor, desired a colleague. Many candidates were invited to preach, but the people could not agree. There were always two parties, and none could please both. If one approved, the other violently opposed. Heated controversy and ill-temper followed. (Trumbull, i. 485.) Apparently there was only sufficient religion in the quarrel to rouse the feelings and give edge to the temper, not enough to inspire with the grace of charity. As they refused advice, the General Assembly felt constrained to interfere. In October, 1667, when Mr. Nathaniel Chauncy occupied the pulpit, it "desired and required" that the freemen and householders of the town should meet and bring in their votes to Mr. Henry Wolcott for a minister, the "written papers" to be counted for Mr. Chauncy, the blanks against him, all present to forbear discourse which "may provoke and disturb each others spirits." Out of one hundred and thirty-eight votes, Mr. Chauncy had eighty-six. Immediately the minority petitioned for liberty to have a minister of their own. It was granted on condition that they procured an able, orthodox one whom the Assembly should approve. The other side had permission to settle Mr. Chauncy. As the result a second society was formed.

Soon after, Mr Benjamin Woodbridge appeared in Windsor, and in October, 1668, had "liberty to keep a lecture there once a fortnight, on the fourth day of the week . . . . and not on the Sabbath without liberty from the Rev. Mr. Warham." At the same time a committee of four eminent elders was appointed to hear both sides, and at the conclusion "to settle an accommodation between the church and the dissenting brethren," if this were possible. Nothing was accomplished. Both ministers continued to preach, and the battle raged for twelve years more. In October, 1680, the Court, considering the "sorrowful condition" and "bleeding state" of the people of Windsor, concluded "to exert its authority . . . . and put a stop to the troubles there." It ordered that the two societies should unite, that both the ministers be released from further service, that a new one, orthodox and able, should be procured, and that who-

ever hindered or opposed would do so at his peril. This exercise of undisputed power closed the war. Mr. Samuel Mather was called, and after two years ordained as the minister of the town. The Assembly gave some directions about admissions to the church, and then told the people that it "expected that no trouble would be given by any person or persons, and that all would quietly attend Mr. Mather's ministry," contribute to his maintenance, and give him encouragement. (Conn. Col. Rec., iii, 104.) They obeyed, and "harmony and brotherly affection" returned. (Trumbull, i, 497.)

In October, 1669, the Assembly having heard that the people of Rye, then included within the limits of Connecticut, had no orthodox minister, and took no care to obtain one to "instruct them in the ways and will of God," seeming content "in the improvement of John Coe and Marmaduke Smith, persons unsound and heterodox in their judgments, if not scandalous in their lives," authorized Nathan Gold and three others to call before them the persons named, or any other in the town, and, if the facts were as represented, to take effectual measures to prevent the sowing of the seeds of error there. They were also to inform the settlers that if they did not take counsel of prudence, and make provision for a suitable minister, "sound, orthodox, and apt to teach"—a man approved by Mr. Bishop, Mr. Handford, and Mr. Eliphalet Jones—the Court was resolved itself to procure and settle one, and at the next session order his maintenance by them. A year later the threat had not been executed, and the County Court of Fairfield was authorized to settle the right man, to order his support, and coerce the payment of his salary. Still later, Captain Nathan Gold and others were desired to do the same work, and "endeavor a comfortable composure and issue of such differences as are among the people." They were to allow the preacher forty pounds per annum. Notwithstanding the efforts made, the pulpit of Rye seems to have continued vacant, and in May, 1674, the Court desired Mr. Eliphalet Jones "to dispense the word of God once a fortnight on the Lord's day," and in October of the same year Captain John Allen and others were to endeavor to obtain a

minister for Rye. In May of the next year, Major Nathan Gold, Major Robert Treat, and Mr. John Burr were "to treat with the inhabitants of Rye, and labor to accommodate matters so that Mr. Prudden might be settled there." In 1677, Mr. Thomas Denham, recommended by the ministers of Fairfield and Stamford, was "likely to settle." At a later date, the last was to be paid the thirty pounds per annum due him for his service, and Mr. Prudden ten pounds for his preaching.

It should be noticed that the Assembly, in dealing with the churches addressed itself directly to the towns, or the people of the towns, there being at first no ecclesiastical societies distinct from the latter. All the inhabitants and legal residents of the towns were members of the congregation, and under the supervision of the minister and church officers. The meeting-house was built and the preacher paid by the town.

For several reasons I have given this brief account of the earlier controversies in the churches of Connecticut. Having undertaken to govern themselves on the congregational or independent plan, I wished to show the measure of their success. More especially I desired to set forth, in detail, the proceedings of the law-makers when discharging their constitutional duty "to preserve the liberty and purity of the gospel, and the discipline of the churches." It will be observed that the Assembly, though capricious, was not often arbitrary, and did not use more than a fraction of the power with which it was invested. Seemingly, without taking sides, or yielding to the influence of prejudice or passion, it acted the part of pacificator, endeavoring always to secure moderation, peace, union, and the good of all. Clearly, it did not desire to run the churches; did not in an officious or meddlesome way interfere with their internal management; but was ever ready to arrest by its authority any revolutionary or erratic movement—any which in its judgment was destructive of the purity of the gospel and the permanent welfare of the churches. It was tolerant, sorrowful, dejected, when those of the same faith quarrelled, but fiercely intolerant when religious error—"heterodoxy and unsoundness"—appeared, or separation was pro-

posed. In several cases its wisdom, discretion, and decision apparently averted grave disaster. On the whole, I cannot but think that the restraints it imposed, and the coercive measures it occasionally and reluctantly adopted, at an early and critical period of Congregational history, were conservative, salutary, needful. Without the exercise of some kind of authority which all respected, there was danger of ecclesiastical anarchy, ending possibly in ecclesiastical despotism. Had the churches and the eager disputants who were rending them been as wise and forbearing, peace, no doubt, would have been restored at an earlier date and at smaller sacrifice.

During the pendency of the absorbing question relative to the Union under the Charter of 1662, the Connecticut Court discontinued its efforts to secure harmony in the churches. It did so, as I infer, that it might give no unnecessary offense to Mr. Davenport and his friends, who strenuously resisted the proposed innovations, and the measures which were leading to them. The New Haven divine (autocrat, I was about to say) was a powerful antagonist, and prudence dictated that perturbing church questions should be kept in the background till the more pressing one which related to the Union had been settled.

In the mean time, however, the Assembly ventured to make an experiment, hoping thereby, probably, to draw out the views of the clergy on the proposed change in the practice of the churches. In answer to a "writing" or petition presented at the October session, 1664, it invited "the ministers and churches to consider whether it be not their duty to entertain [or receive] all persons of an honest and godly conversation, [etc.] in church fellowship, and that they have their children baptized," the latter when grown up and duly qualified to be admitted to full communion. It also desired that the churches "would be pleased to consider whether it be not the duty of the Court to order the churches to practice according to the premises, if they do not practice without such an order." If any dissented, or in other words were opposed to the "half-way covenant" privileges, so-called, they were requested to help the Assembly

with such light as was in them. They did dissent, and the law-makers, having made known their preferences, with exemplary modesty subsided. They had no thought of crowding or crossing their spiritual leaders, or in any way pressing their own views.

The Union having been made secure, the Court again gave its particular attention to the distracted condition of the churches. It resolved, if possible, to put an end to controversy, and in October, 1666, with more spirit than usual, *ordered* that a *synod* should be called, and when met that "the questions presented should be publicly debated to an issue." It further ordered that "all the preaching elders and ministers" of the Colony should be sent as members. Mr. Mitchell, Mr. Brown, Mr. Sherman, and Mr. Glover, of Massachusetts, who were expected to favor the wishes of the Assembly, were desired to be present and give assistance. The questions to be disputed were stated by the Court, but no attempt was made to interfere with the freedom of discussion; no hint given as to the decision which was wanted and would be accepted. Not quite accurate is the statement by a distinguished author that the convention was designed to be used as a means "to *force* the new system into operation." (Contributions to the Ecclesiastical History of Connecticut, p. 27.)

The ministers were ready to obey the order to convene, but were not willing that their meeting should be called a *synod*, or be invested with synodical powers, on the ground apparently that the independence of the churches was threatened. (Trumbull, i, 481.) The Court, convinced of its mistake, saw "cause to vary the title," and named the proposed synod "an assembly of the ministers of the Colony." The change, no doubt, was acceptable to the clergy, but not as much so to the government. If anywhere there was coercion, the law-makers were the coerced party. The reverend body with its new name met in May, 1667, voted *not* to debate the questions proposed as required, and adjourned till autumn. The majority of the members would not adopt or approve the innovating practices which the civil authority wished introduced.

"The churches continued in their former strict method of admitting members to their communion, and maintained their right to choose their ministers, without any control from the towns or parishes. . . . It was insisted, as necessary to the baptism of children, that one of the parents at least should be a member in full communion with the church." "Owning the covenant," so-called, gave the applicant no privilege. (Trumbull, i, 482.)

As no change of opinion was expected at the adjourned meeting, and as a profitless conflict might be the result, the Assembly was afraid of it, and seemingly hedged to prevent it. It had the exclusive right to make all the laws, civil and ecclesiastical, but for sufficient reasons refused to use its power in opposition to the orthodox ministers. The indulgence which it extended to that class was in striking contrast with its treatment of other classes, especially when religious error was charged. Conscience outside of the established faith had no rightful authority, and imposed no limit on legislation.

After having made another half-hearted and futile attempt to convene a general council to settle "matters of faith and order," in accordance with a recommendation of the Commissioners of the United Colonies, the General Court was at length convinced that the clergy would yield nothing willingly. They would not give up their matured opinions, nor change their ancient practice at the dictation of councils, synods, ecclesiastical assemblies, or any outside authority. Conceding for the moment the independence of the churches individually, the Court, weary of dissension and disorder, tried another plan. In May, 1668, it "desired Rev. James Fitch, of Norwich, Mr. Gershom Bulkley, of Wethersfield, Mr. Joseph Eliot, of Guilford, and Mr. Samuel Wakeman, of Fairfield, to meet at Saybrook" in June following, "to consider some expedient for peace, and how the churches and people may walk together within themselves and one with another in the fellowship and order of the gospel, notwithstanding some apprehensions among them in matters of discipline respecting membership and baptism," etc. Apparently, it longed for peace at almost any

price; was anxious that the churches should, among themselves, consider and adopt some scheme to secure it, and was quite willing to sacrifice its own preferences if by so doing that happy end could be attained. The committee reported in May, 1669 (report on file), and at the same session the Assembly passed the remarkable vote (elsewhere quoted in full), allowing certain persons of worth and piety, "orthodox and sound according to law, to have allowance of their persuasion and profession in church ways," etc. This enactment, Dr. Bacon says, "appears to have been intended as a compromise." (Contributions to the Eccles. Hist. of Conn., p. 27.) It seems to me to be a general act of indulgence, permitting all, on certain conditions and within the prescribed limits, whatever their views, to enjoy their opinions "without disturbance." Presumably, its authors had in mind the impending or threatened disruptions of the Hartford and Windsor churches, which were authorized at the October session of the same year. Considered in this light, the act has special significance and does honor to the heads and hearts of those who framed and passed it.

Though a majority of the clergy for a long time opposed the lower standard of qualifications for baptism and church fellowship, they at length, when left wholly to themselves (the General Court having abandoned its attempts to unite them in some plan for self-government), began to think better of the "new way," and at the close of the century had adopted the practices they previously condemned. Under the old dispensation, "the number of church-members in full communion was generally small, and where owning of the covenant was not practiced, great numbers of children were not baptized." A revolution, in these particulars, followed the change—a revolution with disastrous results, as many contend.

It has been claimed that the civil government was "meddlesome" in its dealings with the churches, and "constantly pernicious" in its influence. I have read the record to little purpose if the facts do not warrant a different conclusion. As an illustration of its treatment of individual churches, take the case of the Hartford controversy. It began in the church, and

with no outside interference raged fiercely, till it became evident that there was no power inside to control excesses or limit the mischief. When the General Court was appealed to, in May, 1656, for a redress of grievances, it did nothing but appoint a committee of the highest officers of the government "to advise with the elders" of the Colony, and "to crave their help and assistance" in the emergency. It took no step, apparently, without consultation with the ministers, and was always anxious to devise some way by which the churches could, among themselves, settle their disputes. Seeking to attain the desired end in this way, it called council after council, and at length required the warring factions to submit to the decision or advice of mutual friends. It did not endeavor to enforce its own judgments, and forbore to use its constitutional right till the "withdrawers" were about to take a step which was deemed revolutionary, if not fatal. Promptly, it interposed, and by its authority stopped the movement, without harming anybody.

No doubt the Court was annoyed by the frequent appeals made to it as the final tribunal by the parties involved in church quarrels, and to escape a difficult duty was quite willing to transfer its jurisdiction and responsibility to some other body better fitted to discharge the function of ecclesiastical government. At length, when the voluntary system had broken down; when associations of ministers, councils, and conferences had proved impotent, and the churches had run into great confusion and disorder, the Assembly, with the support or general acquiescence of the clergy and people, again interposed. In May, 1708, it appointed a synod, ratified the Saybrook Platform which was the result of its deliberations, and transferred to the "General Association of Connecticut" so much of its authority as was deemed needful for the internal government and discipline of the churches, and the prompt and peaceful settlement of dangerous controversies and contentions. Thenceforth the General Court was relieved of many perplexing duties and annoyances, but it still considered itself at the head of the ecclesiastical system, and did not lose sight of its obligation to protect the churches and preserve the faith.

Chapter V.

For a long period after its settlement Connecticut was not harassed by dissenters from the established religion. Its remote and secluded situation, away from the seaports, the inlets of mischief, doubtless saved it from some of the annoyances which tried the temper and more than once nearly wrecked the reputation of Massachusetts. For the first twenty years it had no law against that class of disturbers, the fact proving that there was no occasion for any. But in July, 1656, two Quakers (women), and soon after two others (man and woman), were landed at the Bay. They appeared (not unexpectedly) soon after a public fast had been held there, partly on account of the alarming errors which that "accursed and pernicious sect" was propagating in England. That Colony was profoundly agitated. The new-comers were turbulent and fanatical, insulting magistrates and reviling ministers and churches. Official dignity was offended, religious sentiment shocked, and decency scandalized. Instead of treating the offenders as lunatics, the government, led by the zealots, Governor Endicott, Lieut. Governor Bellingham, and Norton, the minister of Boston, resolved to drive them away, as it had done the Baptists, by savage laws—laws which it was hoped, perhaps, it would not be necessary to execute. Blind zeal and obstinacy on one side were matched by infatuated perverseness on the other. The Quakers would not go, and if banished came back at the cost of their lives. They courted the penalty, and got it in full measure.

In the beginning of the frenzy, at the instigation of Endicott and the magistrates of Massachusetts, the Commissioners of the United Colonies proposed to the several General Courts that they should prohibit Quakers and Ranters coming into their respective jurisdictions, and secure and remove them if they came. (Hazard, ii, 347, 349.) In compliance with the request, the General Court of Connecticut, in October, 1656,

ordered that no town should "entertain any Quakers, Ranters, Adamites, or such like notorious heretics" "above the space of fourteen days, on penalty of five pounds per week." Two magistrates were authorized to commit the intruders to prison till they could be sent out of the Colony. Masters of vessels landing any were required to take them away on the first opportunity, or pay a fine of twenty pounds. In August, 1657, this law was amended, and a penalty of five pounds imposed on every person for each heretic he should entertain, and five pounds per week on any town for each heretic it should permit to be entertained, and the like penalty on every person (except magistrates, assistants, elders, or constables) who should unnecessarily speak, more or less, with any heretic. In October of the same year, the keeping (except by elders) of Quaker books or manuscripts containing Quaker errors was made a finable offense, ten shillings to be paid for each transgression.

In September, 1658, the Commissioners of the United Colonies, then in session in Boston, "propounded and commended to the several general courts to make a law that all Quakers once convicted and punished as such, shall, if they again offend, be imprisoned, and forthwith banished under pain of death, and afterward if they come again *be put to death* as presumptuously incorrigible, unless they publicly renounce their cursed opinions and devilish tenets." This recommendation is signed by all the commissioners except one, Josiah Winslow, of Plymouth, who was probably absent. John Winthrop, of Connecticut, then Deputy Governor, has appended to his name these words: "looking at the last as a query and not as an act, I subscribe," meaning, I suppose, that he approved all except the death penalty. Massachusetts alone was unwise enough to pass the act, and carry it into effect. It is probable that that much bewildered Colony, desirous of pursuing a more rigorous policy, and wanting the moral support of the other members of the Confederacy, was at the bottom of this impolitic and indefensible movement on the part of the Commissioners. But whoever prompted the legislation referred to, Connecticut was

not misled. It prudently followed the conservative course suggested by the qualified approval of its favorite representative, Governor Winthrop. All that the General Court did was to authorize, in October, 1658, the magistrates or assistants to punish "Quakers and such like heretics found fomenting their wicked tenets, and disturbing the public peace, by fine, banishment, or corporal punishment, as they judge meet, the same to be inflicted on any person instrumental in bringing heretics into the Colony, provided the fine for a particular default exceed not the sum of ten pounds."

The more tolerant legislation of Connecticut, as compared with that of Massachusetts and the New Haven Colony, would be inferred from the milder epithets it applies to the Quakers. In one instance they are called "loathsome heretics," but never does the Court pronounce them or their opinions "accursed."

During the prevalence of the Quaker frenzy in New England, chiefly in Massachusetts, a contemporary authority quoted by Palfrey (ii, 484), says: Three were martyred or hung, one a woman; three had their right ears cut off; one was branded in the hand with the letter H (heretic); thirty-one persons received six hundred and fifty stripes, several "with pitched ropes;" one was beaten till his body was like a jelly; one is now lying in fetters condemned to die. All these cases occurred in Massachusetts. Her laws were no more severe than those of Episcopal Virginia.

It does not appear, says Dr. Trumbull (i, 442), that the laws of Connecticut against the Quakers were ever executed. I can find nothing which contradicts the statement, but Bishop, quoted by Palfrey, says that two women "were imprisoned several days, and some of their clothes sold to pay their fees." (ii, 484.) Much harsher laws of the New Haven Jurisdiction*

* The law of May, 1658, required that any of that "cursed sect of heretics, called Quakers," coming into the Colony, should at once attend to their lawful business and depart. They were forbidden to "use any means by words, writings, books, or any other way go about to corrupt or seduce others, nor revile or reproach, or any other way make disturbance or offend, and shall (for the prevention of hurt to the people) have

were not a dead letter. The truth is the river settlements were not harassed and tempted like Massachusetts, or even New Haven and the adjacent towns. The former, in particular, was regarded by aspiring and fanatical propagandists in search of opposition and persecution as a conspicuous field for missionary work, where the laborer would have the largest opportunities and the surest success. Very few of the new sect seem to have crossed the borders of Connecticut, while those that did so behaved better than others who were more violently resisted. When persecution abated, and martyrdom was no longer attainable, they soon became orderly and peaceable, and finally obtained a reputation in contrast with their early ravings.

In July, 1675, the General Court "saw cause at present to suspend the penalty for absence from our public assemblies [religious meetings], or imprisonment of those of that [Quaker] persuasion, provided they do not gather into assemblies nor make any disturbance," though they were still liable to pay taxes for the support of the orthodox religion.

The extraordinary lenity which characterizes this law was probably in some way connected with the great Indian war, called King Philip's war, which had suddenly broken out, and created consternation throughout the Colony, and especially in

one or more to attend upon them." Should they transgress they were to "be committed to prison, severely whipped, kept at work, and none suffered to converse with them," till they could be sent out of the Jurisdiction. If they returned, they were to be branded in the hand with the letter H, imprisoned, and again sent away. For the third offense they were to be branded in the other hand, and otherwise treated as before. If they again returned, whether men or women, the act required that they should "have their tongues bored through with a hot iron." Fifty pounds was the penalty for bringing into the Jurisdiction any Quaker; twenty shillings per hour for entertaining him; forty shillings for defending Quaker opinions the first time, eighty the second time, and imprisonment and banishment the third. He who brought Quaker books into the Colony must pay five pounds, and for concealing them five pounds more. By the magistrates and others into whose hands they came, with the advice and approbation of the ministers, they were to be kept safely, "that none may see and read them, and so receive hurt," etc. (N. H. Col. Rec., ii, 240.)

New London County, near the seat of war. The Assembly made strenuous efforts for the defense of the exposed towns, and at the close of the session in July, passed the act referred to. By its means the government probably intended to conciliate and invite the good will and kindly offices of the Quakers, chiefly of Rhode Island, whose friendly relations with the Indians qualified them for important service in this sad emergency. How long the law was suspended I know not, but the time seems to have been short.

While Connecticut, for the moment, was inclined to greater indulgence, Massachusetts pursued the opposite course. Conceiving that the war was a chastisement for the sins of the Commonwealth, and that the milder legislation which had been adopted towards the Quakers was one of the offenses which had called down the wrath of heaven,* the General Court, hoping to make amends for this particular wickedness, passed an act designed to break up Quaker meetings. It required that every person found in attendance should be committed to the house of correction, and kept at work for three days on bread and water, or pay a fine of five pounds in money—which law, at that late day, "lost the Colony many friends," says Hutchinson. (i, 289.)

In his answer to certain queries addressed to him by the English Lords of Trade, Governor Leete, in July, 1680, reported that there were in Connecticut "four or five Seven-day men and about as many Quakers," not enough of either to be dangerous, nor to require any special legislation. This, of course, was long after the union (in 1665) with the New Haven Colony. Of the other denominations, Governor Leete says: "some are strict Congregational men, others are more large Congregational men, and some moderate Presbyterians. The Congregational men of both sorts are the greatest part of the people." (Conn. Col. Rec., iii, 290.)

*When their great enemy, John Norton, the minister of Boston, died suddenly in a fit, April 5, 1663, the Quakers represented his death as a divine judgment. "By the immediate power of the Lord he was smitten and died."

In the revision of 1702, the laws of October, 1658, and July, 1675, do not appear, but those previously enacted are continued as one act, with little change. The Quakers of England, in a petition to the Queen (Anne), complained of its severity, and in October, 1705, it was annulled. At the next session, in May, 1706, the General Court moved in the matter (as if this were necessary), and repealed the law "so far as it respects Quakers," leaving other "heretics" as much exposed to its penalties as they ever were. Very clearly, the Queen's proceeding made void the whole act. (See Col. Rec., iv, 546.)

The conduct of the colonists in the Quaker alarm shows how little confidence they had in religious liberty, and how much in restriction and coercion. They were terror-stricken; their religion was supposed to be in danger, and the civil power must bestir itself. They were under the influence of epidemic frenzy, and while the panic was on, could not be expected to behave with decency. It is true the intruders were unruly and slanderous; the enemies of order, good morals, and the institutions of the country. Though the victims of persecution, in speech they were themselves ferociously intolerant. As violators of wholesome laws and disturbers of the peace, they deserved punishment, or at least restraint. An organized political community has a right to protect itself from the evils of vagrant emissaries and mischief-makers, to remove them from the society and the privileges they abuse, and to prevent their return, using as much force as may be needful; but it has no right to impose excessive or disproportionate penalties. Properly, in some cases, they might have been whipped for vagrancy, or imprisoned if they returned after banishment, but they were guilty of no crime which deserved death. They were hung because they were Quakers and heretics, maintaining "cursed opinions and devilish tenets," not for vilifying magistrates, ministers, and churches; not because their women made indecent exhibitions of themselves, walking the streets in a nude state. Of heresy the colonial governments (Rhode Island excepted) had a mortal fear—fear betraying lack of confidence in the steadfastness and intelligence of the people. The Quakers proved not to be dan-

gerous propagandists, perhaps because their manifest extravagance destroyed the propagating or infectious principle.

It is customary, in history, to defend a sect or party accused of wrong by pleading that others, perhaps the accusers themselves, were equally or more guilty, and that the offense charged must be judged, not by the standard and practice of our time, but by those of the period in which the actions criticised were performed. I admit that allowance should be made for education, example, custom, and existing standards, and that our judgments, at all times, should be tempered with charity; but I still think that virtue, justice, and right are independent realities, having qualities which are unchangeable. The fact should be noted that when New England was settled, and long afterward, religious persecution was universal, or nearly so. In England, as elsewhere, each denomination persecuted every other when it got the power. To ascertain which was the oppressor, it was necessary only to know which was the strongest. From that quarter in this matter came laws and practices which none can justify. In this regard, Connecticut has, perhaps, a cleaner (or, say, a less begrimed) record than any other well-governed community. But it should be remembered that we all live in glazed houses and that promiscuous stone-slinging is not a profitable game for any to begin, nor an easy one to end.

The first settlers of Connecticut, unlike their brethren at the Bay, were not annoyed by the Baptists. In 1680, however, there were ("probably all in New London, and nearly all in the Rogers family") "four or five Seven-day men and about so many more Quakers." The Rogerenes, so called, did not wholly agree with either Baptists or Quakers, but were a sect by themselves. Passionate, denunciatory, and defiant, they took delight in doing whatsoever would shock the opinions or prejudices of the orthodox and ruling party. They upbraided the judges and courts, labored on the Sabbath, disturbed religious meetings, railed at the ministers as hirelings, and would not help support the churches. Having a rare talent for invective, they cultivated it assiduously. For a long

period, beginning about 1680, the local authorities, reinforced by the General Assembly, made strenuous endeavors to control excesses and suppress the sect, using the copious legislation devised for other purposes, all without effect. The offenders laughed at the confusion and vexation their turbulence occasioned, and would not be quieted. As law-breakers, they were set in the stocks, whipped, fined, fettered, and imprisoned. Their leader, John Rogers, a man of extraordinary energy and endurance, spent nearly one-third of the active part of a long life in jail. "Attempts were made to weary them out and break them up by repeated fines. Their estates melted under the seizures of the constable," and the magistrates could scarcely find officers willing to distrain. The minister's rate was particularly obnoxious. To satisfy it were taken "now a cow, then a few sheep, the oxen at the plow, the standing corn, the stack of hay, the threshed wheat, piece after piece of land, all to uphold a system they denounced" and abhorred. As transgressors they ostentatiously volunteered the information necessary for their own conviction, and gloried in the sacrifices they were forced to make.

John Rogers, mainly, no doubt, an honest, but naturally a perverse man, was finally declared to be insane, and fled to New York, chased by the officers of the law. He sought to avoid the threatened medical treatment—the only punishment from which he ever ran. He returned in three months, and renewed his assaults on the institutions and laws of the colony. Had he lived half a century earlier, he would probably have been banished, and on his return hung, if the Bay had been his home. He was certainly an offender qualified to try the patience of a long-suffering people. There is not much doubt that he was a monomaniac, whose infirmity had been aggravated and made fast by opposition and persecution. A prolific writer, he died in 1721, aged seventy-three. (See Caulkins' History of New London, 1860, p. 201 and onward.)

Though prohibitions and punishments had failed to reduce to obedience a handful of disorderly, pertinacious, and pugnacious non-conformists, the statute-makers, after nearly half a

century of trial and disappointment, seem to have learned nothing. In May, 1723, a law entitled an "Act for preventing Disorders in the worship of God" was enacted, which, seemingly, was designed to break up some well-known practices of the Rogerenes. It was a faint imitation, or greatly mitigated form, of one of the worst laws in English history, known as the Conventicle act. Its first section required "that whatsoever persons should neglect public worship in some lawful congregation on the Lord's day, and form themselves into separate companies in private houses" (for religious services) should each for every offense forfeit twenty shillings. As the fine for not worshiping publicly was only five shillings, the other fifteen shillings must have been considered a punishment for worshiping privately. The remaining section imposed a penalty of ten pounds, and whipping, not exceeding thirty stripes, for each offense, on any one not an allowed or lawful minister who should profane the holy sacraments by administering baptism. In the revision of 1750 the last section was omitted, and the forfeit mentioned in the first reduced to ten shillings.

For nearly seventy years from its settlement, the only evidence of the existence in Connecticut of any calling themselves members of the Church of England, is found in a petition to the General Court, dated October 17, 1664. The subscribers, "professors of the Protestant Christian religion, members of the Church of England, and subjects of our sovereign lord, Charles the second," "having seriously pondered our past and present want of those ordinances which to us and our children as members of Christ's visible church ought to be administered," "declare our aggrievances, and petition for redress." "Our aggrievance is [they continued] that we and ours are not under the due care of an orthodox ministry that will in due manner administer to us those ordinances that we stand capable of, as the baptizing of our children, our being admitted (as we according to Christ's order may be found meet) to the Lord's table, and a careful watch over us in our ways," etc. In their destitution, they humbly requested "some wholesome law by virtue

whereof we may both claim and receive of such officers as are or shall be by law set over us in the church or churches where we have our abode and residence those fore-mentioned privileges or advantages." They requested, too, "that, for the future, no law may be in force to make us pay or contribute to the maintenance of any minister or officer in the church that will neglect or refuse to baptize our children, and to take care of us as of such members of the church as are under his or their charge and care."

This document, printed in the Church Review, vol. x, p. 106, is signed by William Pitkin and six others. *Mr.* Pitkin, of Hartford, was a prominent man, attorney for the Colony, a deputy in 1675, and public treasurer in 1677.

In introducing this paper the *Review* sets forth the signers as (among others) the early churchmen of Connecticut, "contending with disabilities and annoyances." My persuasion is that they were not churchmen at all, or were not more than many others who did not join in the Petition. I can find no evidence that there were, at that time, or for many years afterward, any of that denomination in the Colony. Apparently, they were persons who had become involved in the bitter controversies of that period. They considered themselves entitled to certain church privileges which were denied them, and for a temporary purpose, perhaps to give dignity to opposition, declared themselves members of the Church of England, as they may have been before leaving the mother country. The document itself proves that the petitioners were half-way covenant men, so called, who claimed admission to the Lord's supper and baptism for their children—rites which, in the opinion of every true churchman, the Congregationalists of New England were not authorized to administer, and which, coming from such a source, could have no saving efficacy. Their grievance was that their ministers, having the requisite authority, refused, wrongfully, to exercise it in their favor, leaving them "as sheep scattered, having no shepherd." For this reason they claimed that they should not be compelled to maintain them.

Clearly, the signers had the sympathy of the General Court,

Perhaps the latter wanted an excuse for action. In harmony with this view, the Court desired the ministers and churches to consider whether it were not their duty to receive into church fellowship, "all persons who are of an honest and godly conversation, having a competency of knowledge in the principles of religion, and shall desire to join them in church fellowship, by an explicit covenant, and that they have their children baptized, and that all the children of the church be accepted and accounted real members, and that the church exercise a due Christian care and watch over them," etc. The Court also desired to know whether it were not its "duty to order the churches to practice according to the premises." The ministers dissented, and the order was not made.

When the Quaker spasm was over, the churches and people were able, without annoyance from heretics, to give their attention more exclusively to internal dissensions. We have seen how poorly they acquitted themselves in that direction. When all were wearied with theological wrangling, the more practical controversy with the New Haven Colony awakened new emotions. After the union of the two colonies, in 1665, under the charter, there came to New England the king's commissioners to investigate and report. They visited Connecticut, and submitted "propositions" to the Court. Among other things, they required "that all persons of civil lives may freely enjoy the liberty of their consciences, and the worship of God in that way which they think best, provided that this liberty tend not to the disturbance of the public, nor to the hindrance of the maintenance of ministers regularly chosen." They demanded something similar of the other colonial governments, always, doubtless, in obedience to instructions. In 1660, before his accession to the throne, the king (Charles II), to secure popular favor, promised liberty of conscience, and afterward, for a time at least, seemed willing to keep his word. He did several things which give countenance to that idea. The charter of Connecticut was certainly an example of singular liberality. Rhode Island's charter, granted in July, 1663, expressly declared that no person should be molested for "opinion in matters of religion,"

In a conciliatory letter addressed to the Governor of Massachusetts, in June, 1662, the king commanded "that all freeholders of competent estates, not vicious in conversation and orthodox in religion, though of different persuasions concerning church government, should have their votes in the election of all officers, both civil and military."* The command was unheeded, and two years later commissioners were sent over to look after this and other matters, without important result. To his immediate subjects in England, in December, 1662, the king publicly proposed to ask Parliament to concur with him in an act for the relief of "tender and misguided consciences."

Several years later he issued a Declaration of Indulgence, suspending all penal laws against dissenters, but was soon compelled to retract. Parliament, having then but fifty-six Presbyterian members, was unalterably opposed to him. The Protestant non-Conformists were the avowed enemies of universal toleration. They would not accept liberty if the Romish church must share it. In this regard, Charles, it was said, was a hypocrite, and secretly a Papist, plotting for Catholic emancipation. It may be so, but in New England there were no Catholics—none to be benefited by a successful plot. In this matter I find no difficulty in thinking he may have been sincere, momentarily, at least,—as sincere as his thoughtless nature permitted. Nor do I regard the fact that near the close of his last sickness he received the sacrament from the Romish priests as proof of the contrary. When in health and the full possession of his faculties, my suspicion is that he had not religion enough of any kind to influence much his conduct. Though Charles had some good qualities, the bad predominated. He was profligate, faithless, irresolute, indolent, and always needy. Naturally he was not cruel; but notwithstanding his professed regard for liberty, some of the most flagitious laws in English history received his assent—the Corporation act and the Act of Uniformity in 1662, the Conventicle act in 1663, the Five Mile act in 1665, and the Test act in 1673.

But what answer did the General Court give to the king's

* Hazard, ii, 605.

commissioners who required liberty of conscience in Connecticut? This is the reply: "We know not of any one that hath been troubled by us for attending his conscience, provided he hath not disturbed the public" (Conn. Col. Rec., i, 439)—an adroit answer. Though evasive, it was literally correct—correct because there were then none (seemingly) who desired to worship in other than the legal and approved way. Therefore, no man's liberty could be infringed. In his "Narrative" of the Commissioners' proceedings, the writer states that "they [the colonists] will not hinder any from enjoying the sacraments, and in using the common prayer-book, provided that they hinder not the maintenance of the public minister." Had the narrator said that none were kept from the sacraments whom the churches approved, and that all might be freemen who complied with the laws, his statement would have agreed with the facts. As for the prayer-book, I believe the early planters never objected to its use, but would doubtless have done so had they been asked to make it the basis of their public worship. Evidently they made a great effort to please their royal visitors, and furnish satisfactory answers to all questions, some of them knotty ones. They succeeded, as the king afterward signified.

Says Douglass, in his Summary (ii, 135), "I never heard of any persecuting spirit in Connecticut; in this they are egregiously aspersed." The second volume of his work was printed in 1753, only ten years after the notorious New Light legislation, which Dr. Trumbull and Dr. Dutton condemn so vehemently. The same writer characterizes the revised laws of 1750 as "the most natural, equitable, plain and concise laws for Plantations hitherto extant." I believe this commendation, at the time it was bestowed, was well deserved. Comparatively speaking, Connecticut shows to advantage in the Code of 1750. The winnowing process had been introduced, and great improvements made. But the laws still enjoined conformity, and imposed penalties for non-conformity. They did not permit liberty of conscience, for liberty allows one to choose his religion, to select the church he would attend or not attend, to

worship when and where he pleases, and in all cases to follow his conviction in peace. Men who desired to give outward form to their belief, or proposed to set up a church or church administration, were constrained to ask the consent of the General Assembly, and adopt some approved or regulation pattern. The Conventicle act of 1723 was still in force.

The eight or ten unassorted Quakers, Baptists, and Rogerenes, of New London, whom Governor Leete reported to the king's commissioners, had not yet become notorious, and when they did were at first too few to create general disturbance.

About 1706, the Episcopal form of worship was introduced into Fairfield County, and in a few years made important progress. On account of the power and patronage which stood behind it, it was a form which took Connecticut at a disadvantage—one with which it was least able to contend. The Colony was, in truth, under a heavy bond to behave with decency; had a charter which it valued above all things temporal. By discreet management hitherto, this had been preserved in times of peril, and should not now be lost by persistence in imprudent legislation. Nor was it probable that the English government, having by the "Toleration act" of 1689 granted important relief to the dissenters in England, would permit the national church and its supporters to be roughly treated or forcibly suppressed in the colonies. The act referred to repealed no part of the tyrannical legislation which drove the Puritans from their native country, but removed, on certain conditions and to a limited extent, the penalties attached to disobedience. There was in it no recognition of religious liberty as a right, but on the contrary a denial. Restriction was still the rule, liberty the exception. "A very scanty measure" of justice (Hallam), which repealed nothing, it was a forced concession on the part of the established church to the dissenters who had helped to overturn the Stuart dynasty—a reluctant reward for indispensable services rendered. Roman Catholics and those who denied the Trinity were expressly excluded from its benefits. Great care was taken that the act should be no broader than was necessary, nor confer privileges which could with safety be withheld. Col-

onial legislation, so far as it prescribed penalties for certain kinds of non-conformity, was in conflict with it, if not with the charter of 1662. The continued allowance of these conflicting laws was probably due to the fact that they were not complained of, or were not brought to the notice of Parliament. By their operation churchmen, and others not of the Congregational order, were exposed to penalties which were not inflicted on the dissenters of England. They did not "enjoy the liberty of their consciences, and the worship of God in the way they thought best," about which the royal commissioners inquired to little purpose in 1665. Bancroft's glowing account of liberty in early Connecticut (History, ii) is inspiring, or would be were there no exaggeration or embellishment. His detonating sentences remind one of a running fire of Chinese crackers on the morning of the "glorious fourth." He writes eulogy better than history.

Under the circumstances, Connecticut could scarcely do otherwise than pursue the respectful and conciliating course which had distinguished its policy since the restoration of Charles II, in 1660. By the force of this policy the charter was secured, and a good reputation maintained at the English court. King Charles himself complimented the Governor and council on their "dutifulness and obedience," and contrasted their conduct with the "refractoriness" of the Massachusetts Colony. (Conn. Col. Rec., ii, 514.) Civility costs nothing, and not infrequently pays a round profit. The same is sometimes true of timely concession. Undoubtedly Connecticut thought so, and in May, 1708, passed the famous "Act for the ease of such as soberly dissent," etc. It provided that sober dissenters, who were prepared to take certain "iron-clad oaths," to "qualify themselves before the County Court, according to an act made in the first year of William and Mary [1689], granting liberty of worshiping God in a way separate from that which is established by law," should "enjoy the same liberty and privilege in this Colony, without molestation." It assumed that Congregationalism in Connecticut was the equivalent of Prelacy in England, having equal rank and authority, and a rightful pre-

eminence among denominations. It gave to churchmen and other dissenters in the Colony certain privileges which for nineteen years non-Conformists (Papists and Unitarians excepted) had enjoyed in the mother country. If, as its terms imply, it followed the English law, it compelled all who sought its benefits to take the oath of allegiance and supremacy, and subscribe to the declaration against transubstantiation. The clergy were to sign all but three, and parts of two others, of the thirty-nine articles. The appearance before the County Court, in obedience to a Puritan law, of churchmen pledging solemnly for the second time their belief in their own articles, would have been an unusual spectacle, and it is probable that the humiliation was not required, though the colonial law seemed to demand it. Those who took the benefit of the act were still liable to taxation for the support of the established ministry, as they were and continued to be in England till the passage of the Compulsory Church Rates Abolition Act, in 1868. (31 and 32, Vict., Ch. 109.)

The privileges granted by the law of 1708 were important, but, of course, did not satisfy the dissenters of Connecticut. As their number increased and their influence was extended, they became bolder, and more importunate for concessions. The friends of the Episcopal church, though at this time (1727) "a weak and slender body," having but a single minister in the Colony (Beardsley's Hist. of the Episc. Chh. in Conn., i, 73), were zealous, active, and successful in winning converts. Backed as they were by the great influence of the English Society for the Propagation of the Gospel in Foreign Parts—a society which hoped to supply the alleged lack of "religious instruction" in the New England colonies—they felt confidence enough to resist the collection of the tax for the support of the standing order. For their refusal ten were imprisoned in Fairfield, where they were numerous. The church-wardens and others, of Fairfield, then memorialized the General Assembly, praying for relief. At the May session, 1727, the prayer was granted. The act provided that all should be taxed as before, but in places where there was an English church having a set-

tled minister "in orders," that portion of the tax collected from churchmen residing sufficiently near to attend the service, and attending it, should be delivered to the minister of said church. If the sum thus delivered was inadequate, the society was authorized to make up the deficiency by a levy on its own members. Churchmen were also relieved from the burden of helping to build meeting-houses.

In towns containing two ministers, one of the church of England, the purpose of the act seems to have been to distribute equitably the parish taxes, without unnecessary encouragement to the missionaries of the Society for Propagating the Gospel, who were making earnest efforts, as yet in a small way, to bring back the colonists to their primitive faith. These missionaries were supported mainly by the Society "at home," receiving usually, says Dr. Beardsley, sixty pounds sterling per annum, a sum fully equal to that paid to the Congregational minister. Thus they were enabled to labor without much cost to their followers—a great advantage among a poor people. Johnson and Caner were then stationed at Stratford and Fairfield. Active, zealous, sincere, they visited the neighboring villages, preaching, baptizing, and making converts, wherever they went. The curiosity which so novel a spectacle must have excited was naturally followed, when the danger became apparent, by jealousy and sometimes open opposition. The lamblike element in the temper of the people may have suffered by the representation in England that they were, "to a great extent, destitute of religious instruction"—the very thing with which they supposed themselves most bountifully supplied. It is easy to believe that the benevolent men, who, pitying their benighted condition, had come among them as instructors and much needed guides to heaven, were not very cordially received. Too often, perhaps, they were regarded as presumptuous intruders, whose services were more needed "at home," as they designated the mother country, than among themselves.

To the missionaries and their adherents the General Court did not intend to give or allow unusual advantages. Evidently, it meant that they should gain as little as possible from the

economy of their worship caused by the contributions of the Propagation Society. Nor was it disposed to favor those of the Congregational faith who might change their religion to secure reduced taxation. "Some few persons," said Governor Talcott, in a letter to the Bishop of London, quoted by Dr. Beardsley (i, 72), in order "to appear singular, or to be freed from a small tax, declared themselves of the Church of England, some of them living thirty or forty miles from the Church of England's minister." Others took the same course when a new meeting-house was to be built. These things annoyed the Congregationalists, as they well might. Seemingly, they had foreseen the difficulty, and endeavored to provide for it. If a man became a churchman, the law did not exempt him from the customary parish tax for the support of the ministry, but the sum paid by him was to be given to his chosen minister, provided the latter lived in the same parish or conveniently near, but in no case to the itinerant missionary, whose visits were only occasional, whose home, if he had any, was many miles away, and whose salary was paid by others. A different course could not properly have been pursued. A law directing a town to pay over to the minister or church of another town any part of a tax levied for the benefit of the ministry within its own limits would have been an extraordinary one. I see not how the well grounded complaint against the working of the Act of 1727 could have been removed except by allowing to each denomination the exclusive privilege of taxing its own members—its voluntary members—for its own purposes. This was denied—denied, perhaps, because there would then be persons who would not join themselves to any society. Doubtless it was thought better that men should be compelled to support some English church than to have the option of maintaining none, and of living without religion.

Our fathers on both sides of the water, when in power, claimed it as a right and esteemed it a duty to make all contribute to the support of the established religion, on the ground, of course, that the established was the true religion. Nor do I think the principle involved is yet renounced, though its assertion may be

deferred till circumstances favor success. How many in Connecticut would to-day vote for a State religion, if their own could be invested with that distinction, and their denominational friends be permanently installed in the government? Religious toleration is not natural to the human heart, even in its renewed state. It is an exotic whose roots rarely strike deep.

There were important (and doubtless honest) differences of opinion as to the meaning of the Act of 1727, growing out of the itinerant character of the English missionaries, and the wide dispersion of their followers—differences which the courts decided in favor of the dominant party. (See Beardsley's Hist., vol. i, chap. v.) The losing side, finding no remedy, continued to suffer damage, when the minister did not "abide" sufficiently near his people to claim their parish rates. But notwithstanding this, the law, under the circumstances, was a generous one, and creditable to the good sense of the government. It was passed, be it remembered, one hundred and forty-one years in advance of a Parliamentary Act relieving dissenters in England from compulsory parish rates, levied for the support of the established church. Considering that it was asked for by a small, almost insignificant minority, and was wanted to help build up a growing sect which sought (though from conscientious motives) to undermine the religious institutions of the colony, the General Court deserved the gratitude of the petitioners, at least. If the latter did not obtain all they desired, they got as much as they had reason to expect. Had the English government shown an equally liberal and tolerant spirit in 1620 and afterward, the Pilgrims would never have left their native land, nor New England been peopled at the time it was. The act was nothing more than justice and expediency required, but men deserve words of encouragement for doing that, especially in times of unlimited wrong-headedness. If it be claimed, in the way of disparagement, that the law-makers were under the influence of political necessity, the same claim may be urged with equal or greater force against the authors of the renowned Toleration Act of 1689. That the imperfections of the Act did not much embarrass the Anglican Church is, perhaps, shown by the rapid

increase of the latter, growing from "a weak and slender body," in 1728, with two missionaries, to a male membership, in 1738, of six hundred and thirty-six, with nine parishes and seven missionaries. (Church Review, x, 112.)

It may be truly said that the law, if aiming at emancipation, did not go far enough. Individuals were still denied the privilege of choosing their religion without conditions—conditions which they could not with honesty accept. They were forbidden "to neglect public worship in some lawful congregation, and assemble in separate companies in private houses." They were forced to hear preaching which they did not believe, and then compelled to pay for it. Their consciences were in the keeping of the government, and the exercise of private judgment was threatened with penalties.

Those who were active in procuring the legislation of 1708 and 1727 were very properly alive to their own wrongs, but did not feel as keenly for the equal wrongs of others. They sought a selfish end, giving no heed to the principle involved. Like the constitution-makers of 1639, they wanted liberty for themselves, not for all. Nobody just then seems to have thought of the "soberly dissenting" Quakers and Baptists, a very few of whom were living near the Rhode Island boundary, in New London County. But in May and October, 1729, on petition, persons belonging to these denominations "who do attend the worship of God," were "excused from contributing to the support of the established ministry," and from helping to build meeting-houses, without any reference to residence or the abiding place of their ministers.

In all these cases the General Assembly proceeded on the principle of conceding nothing that it could with safety or decency withhold, justifying itself perhaps by the still more illiberal legislation of England. Liberty was doled out in fractional doses, at long intervals, as if it were a dangerous element, and too costly for popular use. The right of a man to his religious opinions, and the wrong of forcing him to practice what his soul abhorred, were not yet acknowledged. Restriction was the rule, freedom the exception, and govern-

ment the absolute and irresponsible dispenser of both. If one did not agree with any of the tolerated sects, but was at heart a Methodist, Unitarian, or Universalist, too honest to play the hypocrite, too conscientious to subscribe to a faith which in his judgment was unsound, he was exposed to all the severities of the laws. But a change was at hand in the minds of the people, and erelong came a change in legislation.

By the act of 1702, modified by others in 1721, 1750, and 1770, every person was required "on the Lord's day carefully to apply himself to the duties of religion and piety, publicly and privately, ... and duly attend the public worship of God on the Lord's day in some congregation allowed by law, *provided* there be any he can conscientiously and conveniently attend, ... or pay a fine of fifty cents," the person accused to prove his innocence. (See Revision of 1808, p. 578.) The proviso introduced in 1770 is of a kind that was unusual, if not unprecedented in Connecticut legislation. It recognized conscience in the world outside, and in men of different persuasions—recognized it as having rightful authority over conduct opposed to the established or allowed belief. Evidently the act was not intended to release any, on the ground of conscientious scruples, from attending public worship somewhere.

In 1783 closed the war of the Revolution, waged in defense of political rights. Connecticut took part in it, not on account of substantial grievances of its own, but out of sympathy for defenseless Massachusetts. During the conflict the doctrine of human rights was scrutinized, and its foundations critically examined. Traditionary beliefs and whatever in philosophy or religion rested on authority alone were investigated anew. It was a time of upheaval, and changes would be looked for in legislation; but Connecticut, now a sovereign State, was, as of old, cautious and conservative. Something, however, it was constrained to do in the way of increased liberality. In the revision of 1784 I find an "Act for securing the Rights of Conscience." It enacted that no persons professing the *Christian* religion, who soberly and conscientiously dissented from the worship and ministry established by law, and attended

public worship by themselves, should incur a penalty for absence from the established or orthodox worship on the Lord's day, or for worshiping in a separate way on said day. It also declared that Christians of every denomination, Separates, Churchmen, Baptists, Quakers, etc., who attended and helped maintain public worship agreeably to their consciences and professions, should not be taxed for the support of any societies but their own. Those who did not belong to any other society were taxed by the Congregationalists. Another section of the same act decreed that all *Protestant* dissenters, maintaining and attending public worship by themselves, should have liberty to use and exercise the same powers and privileges for maintaining their respective ministers, and for building and repairing their meeting-houses, as had the ecclesiastical societies constituted by law.

Another law in the revision of 1784, relating to "Societies," provided that all persons on reaching twenty-one years of age should have liberty to choose the society to which they would belong. If they did not elect in twelve months, they were to be considered as legal members of the society in which they were brought up, etc. New-comers could choose at leisure, but, till they did so, they were required to pay taxes to the society lowest in the list, this requirement showing that the standing order was willing to surrender its preferred claim to taxes not intended for its special benefit. When an individual had once joined a society, he could not be released except to join another.

The revised laws referred to above seem to have taken the place of the Toleration act of 1708, the anti-Rogerene act of 1723, the acts of 1727 and 1729, favoring Churchmen, Quakers, and Baptists, certain acts against the Separates, etc. It is presumed they were satisfactory to all Christian or Protestant denominations, not the less so because they compelled all to pay taxes for the support of the churches, and all to be church-goers, willing or unwilling. Churchmen in particular ought to have been satisfied, as they were generally tories during the war, and gave great offense.

In May, 1816, that part of the Act which exacted a penalty for absence from public worship was repealed. In appearance this was done to satisfy the demands of an enterprising but boisterous party, which threatened to revolutionize the government. The repealing Act, as I understand it, in effect put an end to compulsory attendance on religious services of any kind. The law had been in force since 1650, and was an essential part of a system of constraint which was soon to crumble away. At first the offense to be punished must be proved in the usual way; but in May, 1721, the rule of law was reversed, and the accused required to prove innocence, or be judged guilty. The virtual abolition of the compulsory go-to-meeting Act was a very important concession, but it came too late to save the party in power. The Assembly's action, of course, gave great grief to the good men of 1816, and was a cause of gratulation to fair-weather worshipers—and the heathen. But the churches, notwithstanding, were not deserted, nor in any way weakened. Religious belief is too deeply implanted to be swept away by adverse legislation, or to perish because not encouraged by fines.

In 1817, by a coalition of all the dissatisfied elements, ecclesiastical and political, the ruling dynasty was overthrown. Congregationalism, considered as the dominant or State religion, was compelled, not to take a back seat, but to relinquish its preferred claim, and sit undistinguished with the congregation. Its faithful ally, Federalism, under the leadership of some of the ablest and best men of the State, was constrained to share the humiliation. It was a time of wrath, billingsgate, and uproar. Ribald pamphleteers, demagogues, and the caucus, flourished as never before or since in Connecticut. The victorious party, then called the Republican or Toleration party, now the Democratic party, proved not to be the monster which many had supposed. Having obtained office, power, and plunder, the latter not large, its savage instincts were mollified, and its patriotic impulses quickened. However, it was necessary to do something to redeem its promises of reform; and fortunately for its continued ascendency there was yet something to be

done. It began work immediately. At the first session of the General Assembly after its accession to power, in May, 1817 (Oliver Wolcott, a disaffected Federalist, governor), the meliorated but unsatisfactory law of 1791, purporting to "secure equal rights and privileges," was repealed, and a more liberal and explicit one enacted. The latter declared that any person of any Christian denomination had full liberty to join himself to any other denomination, while to every society of Christians was given the power to tax its own members—its own members only. The privileges conferred on individuals by this Act were not dependent, as those of the previous and all similar acts were, on the church-going habits of the recipients.

Up to this time, and till the Constitution was adopted in 1818, there was one law, fundamental in the ecclesiastical system of legislation, which had always been denounced as unjust and oppressive by dissenting sects—always till they were allowed to share its benefits, and not afterward—which had not been disturbed. It had its origin in an order passed in October, 1644, and appeared at length in the Code of 1650. I have already given it. It declared that every inhabitant should contribute to all charges both in church and commonwealth, and if needful be compelled thereto by assessment and distress. It is found in the Revision of 1808, and appears to have been in force till the Constitution knocked away its foundation. Of course it was not included in the Revision of 1821. A remnant of the belief that the State should contribute of its revenues to the support of religion and religious institutions is still visible in the management of our public schools, and in the votes of the freemen when an appeal is taken. The facts prove that the principle which at first determined the union of State and Church has not yet been given up. Nor will it be, probably, so long as sects can agree as to the forms to be observed.

To make fast the advantages in favor of religious rights which had been secured, and to prevent the recurrence of evils which had been with difficulty uprooted, a constitutional convention was called. It met in August, 1818, and framed our present Constitution. This was ratified by the freemen in

October, and took the place of King Charles' Charter as the fundamental law of the State. Its more distinctive characteristic is the Bill of Rights, limiting the power of the General Assembly. The third section declares that "The exercise and enjoyment of religious profession and worship, without discrimination, shall forever be free to all persons in this State; provided that the right hereby declared and established shall not be so construed as to excuse acts of licentiousness, or to justify practices inconsistent with the peace and safety of the State." The fourth section reads thus: "No preference shall be given by law to any Christian sect or mode of worship." In the body of the Constitution, Article 7, is found the following: "No person shall by law be compelled to join or support, nor be classed with, or associated to, any congregation, church, or religious association." "And each and every society or denomination of Christians in this State shall have and enjoy the same and equal powers, rights, and privileges;" and shall have power to maintain "the ministers of their respective denominations, and to build and repair houses for public worship, by a tax on the members of any such society only, to be laid by a major vote."

Provided good morals and the public peace are preserved, there seems now to be no constitutional difficulty in the way of setting up any kind of religious worship in Connecticut, Christian or Pagan; but only Christian denominations are authorized to tax their own (voluntary) members for the support of ministers and churches. At first Jewish societies had no such authority, but more recently the Assembly has invested them with the same rights and privileges as were given to Christian denominations. As the Assembly may do any thing not distinctly forbidden by the Constitution, it must have been qualified to grant this indulgence. It would be lawful, I suppose, to encourage Mohammedanism or any form of idolatry in the same way, or to a much greater extent. Laws regulating anti-Christian sects need not be equal.

ON THE LAST DATE

YC 08964